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federal register

MONDAY, OCTOBER 18, 1976

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	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-NE-17, Amdt. 39-2728]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Wasp Jr., and R-985 Model Engines; Deferral of Effective Date

This order defers until November 6, 1976, the effective date of Airworthiness Directive Amendment No. 39-2728 which required an inspection of Pratt & Whitney Aircraft Wasp Jr. and R-985 cylinder assemblies having over 4000 hours time in service since new or rebarreled at intervals of 100 hours time in service and at overhaul.

The effective date of October 6, 1976, as set forth in Amendment No. 39-2728 did not provide sufficient time for those affected to provide the necessary test equipment to implement pressure testing required by the AD.

The agency has determined that this deferral will not have an adverse effect on safety in air commerce and transportation.

It is therefore ordered that the effective date of Airworthiness Directive 76-20-01, Amendment No. 39-2728 be deferred until November 6, 1976.

Issued in Burlington, Mass., on October 6, 1976.

QUENTIN S. TAYLOR,
Director, New England Region.

[FR Doc.76-30226 Filed 10-15-76;8:45 am]

[Docket No. 76-GL-11, Amdt. 39-2747]

PART 39—AIRWORTHINESS DIRECTIVES

General Electric CF6-6 Engines

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring removal of the fan boster shroud material from General Electric CF6-6 series engines was published in the FEDERAL REGISTER dated June 14, 1976.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Some commenters addressed themselves to the probability of occurrence of overpressure in the CF6-6 compressor, which they considered remote because of the small amount of abradable material and the split flow of booster air between fan stream and compressor. They further stated that, since only one in-service case of overpressure has occurred, it was opined that an airworthiness directive was not justified. The FAA does not agree. The possibility of overpressure cannot be discounted, and the abradable shroud material must, therefore, be removed. The Airworthiness Directive will be issued.

The proposed effective date of July 1, 1977 was said to be impossible to meet without a severe operational and economic impact on some operators. After reviewing the shop capability of the industry and again taking into account the safety considerations involved, the FAA has extended the effective date to December 31, 1977.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89) § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GENERAL ELECTRIC: Applies to Models CF6-6D and CF6-6D1 Turbofan Engines.

Compliance required by December 31, 1977, unless previously accomplished.

To prevent excessive overpressure in the high pressure compressor, remove the abradable material from the inside diameter of the Fan Stator Shroud Mid Ring (Booster Stage) in accordance with General Electric Service Bulletin (CF6-6) 72-047 or subsequent FAA Approved Revision thereto.

The manufacturer's service bulletins identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Company, Cincinnati, Ohio 45215. These documents may also be examined at the FAA Great Lakes Region, 2300 E. Devon Avenue, Des Plaines, Illinois 60018 and at FAA headquarters, 800 Independence Avenue, S.W., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Great Lakes Region.

This amendment becomes effective October 20, 1976.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Ill., on October 6, 1976.

JOHN M. CYROCKI,
Director, Great Lakes Region.

NOTE.—The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.76-30273 Filed 10-15-76;8:45 am]

[Airworthiness Docket No. 76-WE-19-AD; Amdt. 39-2742]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company Model L-1011-385 Series Airplanes

There have been several cases where one of the two main landing gear upper side brace spherical bearing trunnion retaining bolts failed due to stress corrosion on Lockheed-California Company L-1011-385 series airplanes. A single bolt failure will not usually result in secondary structural failures leading to unsafe conditions, however, continued operation with one failed bolt combined with severe landing or ground maneuver conditions could lead to a collapse of a main landing gear assembly. Since this condition is likely to exist or develop in other airplanes of the same type design an airworthiness directive is being issued to require repetitive visual inspections of each main landing gear upper side brace trunnion area with replacement or repair of damaged parts as necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

LOCKHEED-CALIFORNIA COMPANY. Applies to Model L-1011-385 series airplanes, certificated in all categories.

Compliance required as indicated.

To prevent possible collapse of a main landing gear assembly due to failure of one or both of the two main landing gear upper side brace spherical bearing trunnion retaining bolts, accomplish the following:

(a) Within the next 75 hours' time in service after the effective date of this AD accomplish the following checks, inspections, repairs or replacements as necessary, in accordance with accomplishment instructions of the Lockheed-California Company Alert Service Bulletin 093-32-A115, dated September 1, 1976, or later FAA-approved revisions.

(1) Prior to each flight, perform a visual check of each main landing gear upper side brace trunnion joint and verify that the two trunnion bearing cap retaining bolts P/Ns 76754-18-71 or 69630v18-71 or 69680-18-71 are in place and that no obvious structural deformation of the trunnion bearing caps P/Ns 1504393 -103 or -110 has occurred.

(2) If one or both retaining bolts P/Ns 76754-18-71 or 69630v18-71 or 69680-18-71 are missing or if a structural deformation

of the trunnion bearing caps P/Ns 1504393 –109 or –110 appears to have occurred, before further flight replace both retaining bolts and inspect the side brace support fitting P/Ns 1504393 –107 or –108 and the trunnion bearing caps P/Ns 1504393 –109 or –110 for structural damage and replace or repair as necessary the parts found to be damaged.

(3) The checks required by this AD may be performed by a flight crew member.

(b) Equivalent checks, inspections, repairs and replacements may be used when approved by the Chief, Aircraft Engineering Division, FAA, Western Region.

This amendment becomes effective October 18, 1976.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Los Angeles, Calif., on October 1, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-30268 Filed 10-15-76;8:45 am]

[Airworthiness Docket No. 76-WE-20-AD; Amdt. 39-2746]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman G–164 Airplanes Modified by STC SA647WE

There has been a fatigue failure in the main landing gear strut. Frenco Co. P/N 1428, installed in accordance with STC SA647WE, on Grumman Model G–164 airplanes that resulted in the collapse of the main landing gear. Since this condition is likely to exist or develop in other landing gear struts of the same design, an airworthiness directive is being issued to require repetitive inspections of the landing gear struts.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GRUMMAN AMERICAN. Applies to Model G–164 airplanes certificated in all categories incorporating Frenco Co. main landing gear struts P/N 1428, installed in accordance with STC SA647WE.

Compliance required as indicated.

To prevent possible hazards associated with main landing gear strut failures, accomplish the following:

(a) Within the next 100 landings after the effective date of this airworthiness directive, unless accomplished within the last 1900 landings, and thereafter at intervals not to exceed 2000 landings from the last inspection, remove the main gear struts, Frenco Co. P/N 1428, and inspect the struts for cracks using dye penetrant and a glass of at least 10 power or magnetic particles inspection.

NOTE.—During the inspection required by paragraph (a) particular attention should be directed to the upper bend radius, and fuselage attachment area.

(b) If cracks are found, before further flight, replace the cracked strut with an unused strut of the same part number.

(c) For the purpose of complying with this airworthiness directive, subject to the acceptance by the assigned FAA maintenance inspector, the number of landings may be determined by dividing each airplane's hours' time in service by the operator's fleet average time from takeoff to landing for the airplane type.

(d) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region may adjust the repetitive inspection interval specified in this AD to permit compliance at an established inspection period of the opertaor if the request contains substantiating data to justify the increase for that operator.

(e) Equivalent inspection procedures or parts may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment becomes effective October 20, 1976.

Issued in Los Angeles, California, on October 6, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-30333 Filed 10-15-76;8:45 am]

[Airworthiness Docket No. 75-WE-4-AD; Amdt. 39-2744]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed L–1011–385–1 Series Airplanes

Amendment 39-2133 (40 FR 12772), AD 75-07-03 imposes a limitation against autopilot use below 100 feet unless dual pitch trim is operative down to 100 feet. Paragraph (d) of AD 75-07-03, as part of the required corrective action, specifies that all Lockheed P/N 672 443- (105, –107, or –109) Trim Augmentation Computers must be modified in accordance with Lockheed Service Bulletin 093-22-069, dated November 26, 1974, or later FAA-Approved revisions, by December 1, 1976. After the issuance of Amendment 39-1233, the manufacturer advised the Agency that a logistical problem exists due primarily to the difficulty L–1011 operators have experienced in returning the units to Collins Radio Company for modification since the trim augmentation computer contains dispatch related functions. A temporary shortage of spare parts also contributes to this problem.

Pending the accomplishment of the modification required by paragraph (d) of the AD, the placard in the airplanes of the operator's fleet imposes an operational limitation to ensure an adequate level of safety. The Agency remains convinced of the need for the accomplishment of the terminating action. Therefore, the AD is being amended to provide additional time for compliance with paragraph (d).

Since this Amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-2133, AD 75-07-03 is amended by revising paragraph (d) to read as follows:

(d) All Trim Augmentation Computers, Lockheed P/N 672 443- (105, –107, or –109), must be modified in accordance with Lockheed Service Bulletin 093-22-069, dated November 26, 1974, or later FAA-Approved revisions, by July 1, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

This Amendment becomes effective October 20, 1976.

Issued in Los Angeles, California, on October 6, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-30331 Filed 10-15-76;8:45 am]

[Airworthiness Docket No. 76-WE-17-AD; Amdt. 39-2745]

PART 39—AIRWORTHINESS DIRECTIVES

Lockheed-California Company L–1011–385 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of the latch pin guard assemblies and related components, reidentification of the latch fitting assemblies and check of proximity sensors adjustment on Lockheed-California Company L–1011–385 series airplanes was published in 41 FR 36512.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive.

LOCKHEED-CALIFORNIA COMPANY. Applies to Lockheed Model L–1011–385 series airplanes certificated in all categories having C–1A cargo door installed.

Compliance required within the next 300 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent the latch pins on the latch fittings of the C–1A cargo door surround structure from being incorrectly installed during maintenance replacement, which could result in a possible in-flight loss of the C–1A cargo door, accomplish the following:

(a) Install latch pin guard assemblies and related components, reidentify the latch fitting assemblies and check proximity sensors adjustment as necessary, on the C–1A cargo door surround structure, in accordance with Lockheed-California Company Service Bulletin 093–52–083 dated May 25, 1976, or later FAA-approved revision or equivalent modification approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(b) Airplanes may be flown in accordance with FAR 21.197 to a base where the modification can be performed.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment becomes effective November 20, 1976.

Issued in Los Angeles, California, on October 6, 1976.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.76-30332 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-GL-26]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of a VOR Airway Segment

On August 5, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 32759) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the VOR airway structure between Bradford and Capital, Ill.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1976, as hereinafter set forth.

In § 71.123 (41 FR 307) is amended as follows:

In V-127 "From Capital, Ill., INT Capital 013° and Bradford, Ill., 159° radials; Bradford" is deleted and "From Bradford, Ill." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6 (c), Department of Transportation Act, (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 8, 1976.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-30228 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-WE-14]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Establishment and Alteration of Federal Airways

On July 12, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 28534) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulation that would establish an airway from Nicol Intersection, Calif., to Mina, Nev., and alter V-230 from Nicol Intersection to Bishop, Calif.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1976, as hereinafter set forth.

Section 71.123 (41 FR 307) is amended as follows:

1. In V-230 "INT Friant 404° and Bishop, Calif., 338° radials; to Bishop." is deleted and "to Mina, Nev." is substituted therefor.

2. V-381 is added as follows: "V-381 From Bishop, Calif., to INT Bishop 337° and Friant, Calif., 040° radials."

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 7, 1976.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-30269 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-SO-55]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Airways

On August 5, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 32759) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the VOR airway structure in the vicinity of Alma, Ga.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1976, as hereinafter set forth.

In § 71.123 (41 FR 307 and 38761) (40 FR 56884) the airways are amended as follows:

In V-5, "From Jacksonville, Fla.; INT Jacksonville 319° and Alma, Ga., 148° radials; Alma; Dublin, Ga.; Athens, Ga.; INT Athens 340° and Anderson, S.C., 274° radials; INT Anderson 274° and Chattanooga, Tenn., 127° radials; Chattanooga; including a west alternate from Dublin via Macon, Ga.;" is deleted and "From Jacksonville, Fla.; INT Jacksonville 318° and Alma, Ga., 150° radials; Alma; INT Alma 342° and Dublin, Ga., 167° radials; Dublin; Athens, Ga.; INT Athens 340° and Anderson, S.C., 274° radials; INT Anderson 274° and Chattanooga, Tenn., 127° radials; Chattanooga, including a west alternate from Alma; INT Alma 311° and Vienna, Ga., 123° radials, Vienna; Macon, Ga.;" is substituted therefor.

In V-51, "Jacksonville; INT Jacksonville 319° and Alma, Ga., 148° radials, Alma; including an E alternate; Dublin, Ga.;" is deleted and "Jacksonville; INT Jacksonville 318° and Alma, Ga., 150° radials, Alma; INT Alma 342° and Dublin, Ga., 167° radials, Dublin;" is substituted therefor.

In V-243, "From Jacksonville, FL., INT Jacksonville 319° and Waycross, Ga., 126° radials, Waycross, Vienna, Ga., including an E alternate via Alma, Ga., and INT Alma 320° and Vienna 104° radials;" is deleted and "From Jacksonville, Fla., INT Jacksonville 318° and Waycross, Ga., 126° radials, Waycross; Vienna, Ga.;" is substituted therefor.

In V-267, "INT Jacksonville 334° and Dublin, Ga., 151° radials, Dublin;" is deleted and "INT Jacksonville 333° and Dublin, Ga., 152° radials, Dublin;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 7, 1976.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-30270 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-EA-59]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone

On page 35535 of the FEDERAL REGISTER for August 23, 1976, the Federal Aviation Administration published a proposed rule which would alter the Plattsburgh, N.Y., control zone (41 FR 417).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t., October 21, 1976.

(Sec. 307(a), Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on September 30, 1976.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Plattsburgh, N.Y. control zone by adding the following:

within 3 miles each side of the Clinton County Airport ILS localizer south course, extending from the localizer to 3 miles south of the OM.

[FR Doc.76-30272 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-WE-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Designation of Temporary Restricted Areas; Correction

In FR Doc. 76-25670 appearing at page 37100 in the FEDERAL REGISTER of September 2, 1976, the following corrections are made:

1. In R-4818D, Sierra, Nev., Designated Altitudes: "AGL" is corrected to "MSL".

2. In R-4818E, Sierra, Nev., Designated Altitudes: "AGL" is corrected to "MSL".

Issued in Washington, D.C., on October 7, 1976.

EDWARD J. MALO,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-30271 Filed 10-15-76;8:45 am]

[Airspace Docket No. 76-RM-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration and Extension of Restricted Area

On August 12, 1976, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (41 FR 34077) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter and extend Restricted Areas R-6404 A/B/C, Hill AFB, Utah.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No comments were received in response to the NPRM.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 30, 1976, as hereinafter set forth.

In § 71.151 (41 FR 345) Restricted Area R-6404C is deleted.

In § 73.64 (41 FR 694) Restricted Areas R-6404 A/B/C, titles and texts are deleted and the following are substituted therefor.

R-6404A HILL AFB, UTAH

Boundaries. Beginning at Lat. 41°15'00" N., Long. 113°43'50" W.; to Lat. 41°10'40" N., Long. 112°45'00" W.; to Lat. 41°00'00" N., Long. 112°45'00" W.; to Lat. 41°00'00" N., Long. 112°56'30" W.; to Lat. 40°51'30" N., Long. 112°56'30" W.; to Lat. 40°48'30" N., Long. 113°40'00" W.; to point of beginning.
Designated altitudes. Surface to FL 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill AFB, Utah.

R-6404B HILL AFB, UTAH

Boundaries. Beginning at Lat. 41°10'40" N., Long. 112°45'00" W.; to Lat. 41°07'00" N., Long. 112°39'00" W.; to Lat. 41°01'00" N., Long. 112°39'00" W.; to Lat. 40°51'30" N., Long. 112°56'30" W.; to Lat. 41°00'00" N., Long. 112°56'30" W.; to Lat. 41°00'00" N., Long. 112°45'00" W.; to point of beginning.
Designated altitudes. 100 feet AGL to FL 580.
Time of designation. Continuous.
Controlling agency. Federal Aviation Administration, Salt Lake City ARTC Center.
Using agency. Commander, Hill AFB, Utah.

(Sec. 307(a), Federal Aviation Act of 1958, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on October 8, 1976.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.76-30227 Filed 10-15-76;8:45 am]

[Docket No. 16203; Amdt. No. 1042]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Information Center, AIS-230, 800 Independence Avenue, S.W., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective December 2, 1976:

Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 14, Original
Ft. Leonard Wood, MO—Forney AAF, VOR Rwy 32, Original

* * * effective November 25, 1976:

Mansfield, MA—Mansfield Muni. Arpt., VOR-A, Amdt. 9
Thief River Falls, MN—Thief River Falls Public Arpt., VOR Rwy 13, Amdt. 4
Thief River Falls, MN—Thief River Falls Public Arpt., VOR Rwy 31, Amdt. 5
Batavia, NY—Genesee County Arpt., VOR-A, Original
Saratoga Springs, NY—Saratoga County Arpt., VOR-A, Amdt. 1
Lancaster, SC—Lancaster County Arpt., VOR/DME-A, Amdt. 3

* * * effective November 18, 1976:

Mount Pocono, PA—Mount Pocono Arpt., VOR Rwy 13, Amdt. 1

* * * effective November 4, 1976:

Hot Springs, AR—Memorial Field, VOR Rwy 5, Amdt. 10

* * * effective October 28, 1976:

Lewisburg, WV—Greenbrier Valley Arpt., VOR-A, Amdt. 5

* * * effective October 21, 1976:

Plattsburgh, NY—Clinton County Arpt., VOR-A, Amdt. 14

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective November 25, 1976:

Chicago, IL—Chicago Midway Arpt., LOC Rwy 31L, Amdt. 5

* * * effective November 18, 1976:

Houston, TX—Houston Intercontinental Arpt., LOC/DME(BC) Rwy 32, Amdt. 2

* * * effective October 21, 1976:

Plattsburgh, NY—Clinton County Arpt., LOC Rwy 1, Original
Cleveland, OH—Burke Lakefront Arpt., LOC Rwy 24R, Amdt. 3

* * * effective September 29, 1976:

Chattanooga, TN—Lovell Field, LOC Rwy 2, Amdt. 1

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective December 2, 1976:

Ft. Leonard Wood, MO—Forney AAF, NDB Rwy 32, Original

* * * effective November 25, 1976:

Fitzgerald, GA—Fitzgerald Muni. Arpt., NDB Rwy 1, Amdt. 1
Statesboro, GA—Statesboro Muni. Arpt., NDB Rwy 13, Amdt. 2
Statesboro, GA—Statesboro Muni. Arpt., NDB Rwy 31, Amdt. 2
Chicago, IL—Chicago Midway Arpt., NDB Rwy 4R, Amdt. 7
Chicago, IL—Chicago Midway Arpt., NDB Rwy 13R, Amdt. 5
Chicago, IL—Chicago Midway Arpt., NDB Rwy 31L, Amdt. 4
Morganton, NC—Morganton-Lenoir Arpt., NDB-A, Amdt. 2, cancelled
McMinnville, TN—Warren County Memorial Arpt., NDB Rwy 5, Amdt. 1
McMinnville, TN—Warren County Memorial Arpt., NDB Rwy 23, Amdt. 1

Hillsboro, WI—Kickapoo Arpt., NDB Rwy 23, Amdt. 2

* * * effective November 4, 1976:

Hot Springs, AR—Memorial Field, NDB Rwy 5, Amdt. 3

* * * effective October 28, 1976:

Lewisburg, WV—Greenbrier Valley, Arpt. NDB Rwy 4, Amdt. 4

* * * effective October 21, 1976:

Cleveland, OH—Burke Lakefront Arpt., NDB Rwy 24R, Amdt. 2

* * * effective September 30, 1976:

Washington, DC—Washington National Arpt., NDB Rwy 36, Amdt. 3

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 25, 1976.

Chicago, IL—Chicago Midway Arpt., ILS Rwy 4R, Amdt. 3
Chicago, IL—Chicago Midway Arpt., ILS Rwy 13R, Amdt. 32

* * * effective November 4, 1976:

Hot Springs, AR—Memorial Field, ILS Rwy 5, Amdt. 4

* * * effective October 28, 1976:

Lewisburg, WV—Greenbrier Valley Arpt., ILS Rwy 4, Amdt. 2

* * * effective September 30, 1976:

Washington, DC—Washington National Arpt., ILS Rwy 36, Amdt. 28

* * * effective September 29, 1976:

Duluth, MN—Duluth Int'l Arpt., ILS Rwy 27, Amdt. 1

5. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective December 2, 1976:

Ft. Leonard Wood, MO—Forney AAF, RADAR-1, Original

* * * effective October 28, 1976:

Macon, GA—Herbert Smart Downtown Arpt., RADAR-1, Original

* * * effective September 29, 1976:

Chattanooga, TN—Lovell Field, RADAR-1, Amdt. 5
Duluth, MN—Duluth Int'l Arpt., RADAR-1, Amdt. 11

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective November 25, 1976:

Hillsboro, WI—Kickapoo Arpt., RNAV, Rwy 23, Original

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1354, 1438, 1421, 1510, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on October 7, 1976.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.76-30229 Filed 10-15-76;8:45 am]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1018—ADVISORY COMMITTEE MANAGEMENT

PART 1609—NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Amendment of Regulations After Consideration of Public Comments

On September 24, 1975 (40 FR 43880), the Consumer Product Safety Commission published regulations for the establishment, operation, and administration of its advisory committees. The regulations are rules of agency organization, procedure, or practice and are, therefore, not subject to the rulemaking procedures of 5 U.S.C. 553. The Commission did, however, solicit public comment and ten comments were received from interested parties, including a consumer representative on the Product Safety Advisory Council, Consumer Product Safety Commission (CPSC); an interested individual; the National Small Business Association; two industry representatives on the Technical Advisory Committee for Poison Prevention Packaging, (CPSC); the Power Tool Institute; the American Apparel Manufacturers Association; a professional engineer; the Textile Distributors Association, Inc.; and Director of the State Programs Division, Office of Field Coordination, CPSC.

The main issues raised in the comments and the Commission's conclusions thereon are as follows:

1. One commenter suggested that the use of the word "affiliation" in § 1018.33, "Change of Status", is vague and suggests that this vagueness could be remedied by a reference back to § 1018.15(b) (renumbered § 1018.16(b) in this amendment) where the term "affiliation" means that which "bears any relationship to the subject area of product safety or to membership on the advisory committee."

Since "affiliation" in § 1013.33 means the affiliation which "affects [the member's] representational capacity on an advisory committee (upon which the member's application was based)" and that capacity is determined by the member's relationship, whether as a consumer, industry, government or scientific representative, to the area of product safety, there appears to be no significant potential for confusion and, in the Commission's view, no modification or amendment is necessary.

2. The same commenter suggests that the provision in § 1018.33 which provides for notification to the Commission when a member changes his or her affiliation does not adequately cover the situation of a member who retains the affiliation upon which his or her application for membership was based and, in addition, assumes a new affiliation which has an actual or potential effect on that member's representational capacity.

The Commission agrees that the provision regarding notification of a change in affiliation should apply where the member assumes a new affiliation, whether or not the original affiliation is retained. The provision of § 1018.33 has, therefore, been amended to reflect this intended application.

3. A number of commenters expressed concern that the Conflict of Interest provisions contained in § 1018.34 would unduly restrict the availability of persons qualified to serve as advisory committee members and would deprive the Commission of valuable technical expertise. The chief concern was that many present and potential future advisory committee members, particularly those in scientific and technical fields, are, because of their backgrounds and expertise, likely to become involved in Commission sponsored contracts, grants or safety standard development. These individuals would be precluded, these commenters maintain, from membership on advisory committees by the language of § 1018.34 (a) and (b) as presently drafted.

The Commission promulgated the Conflict of Interest provision in response to actual situations which have presented themselves where the personal interests of advisory committee members were such as to diminish their independent or representational judgment. The appearance of these situations could undermine public confidence concerning the integrity and independence of the advisory committees. As was indicated in the regulations, as promulgated, members of the Commission's statutory advisory committees are not legally subject to the standards of conduct and conflict of interest statutes and regulations applicable to Commission employees. However, the avoidance of situations which might tend to compromise or appear to compromise the integrity or independence of the advisory committees or the Commission should be avoided. Situations arising will be evaluated on their own merits, using the Conflict of Interest provisions (§ 1018.34) as guidelines. In this regard, the Commission believes that clarification is in order with respect to the intent of the provisions relating to contracts. The Commission's view is that the potential for real or apparent conflicts of interest exists primarily in the area of negotiated procurement, where the personnel of a potential contractor are taken into consideration by the Commission official in awarding the contract. In advertised procurement, where price is the single determining factor, or in "sole source" contracts, where the nature of the subject matter is the determining factor, the potential for real or apparent conflicts of interest is generally not present. For these reasons, the conflict of interest provisions speak in terms of "negotiations" for contracts and are intended to apply accordingly. The provisions applicable to negotiated procurement are equally applicable to grants and proposals to develop safety standards, where the personnel of the applicant or offeror are a major factor in evaluating the proposals.

Concern was expressed by one commenter that § 1018.34(c) would require

resignation from an advisory committee of a member who was involved in a representational capacity in a particular matter or proceeding before the Commission, notwithstanding the fact that the role of advisory committees is strictly advisory and there is little danger in such a situation of a compromise in the integrity of the Commission's decision making process. This commenter suggests that disqualification or withdrawal from the advisory committee's discussions concerning the particular matter might be more appropriate than resignation from the committee.

The Commission agrees that, in some situations, withdrawal by the advisory committee member from the discussion or consideration of a particular matter would be more appropriate than resignation from the Committee. Resignation from the committee could still be required in appropriate circumstances.

The Commission believes, however, that crucial to the maintenance of the integrity and independence of the advisory committees is the assurance that all affiliations and involvements of advisory committee members be disclosed which, in any way, affect either their representational capacity or the objectivity of their statements or arguments and the perspective from which other members might view such statements or arguments. Consequently, the Conflict of Interest sections have been amended to require such disclosure and to provide for withdrawal from particular discussions as an alternative to resignation from the committees.

4. One commenter suggested that the application of the Conflict of Interest provisions, § 1018.34 (a) and (b), to state and local government members of advisory committees, particularly members of the Product Safety Advisory Council (PSAC) would interfere unduly with the Commission's program of Federal-state cooperation.

Section 28(a)(1) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2077(a)(1), requires that five members of the PSAC be selected from governmental agencies, including state and local governments. Section 29(a) of the CPSA (15 U.S.C. 2078(a)) requires the Commission to establish a program of Federal-state cooperation. In implementing this program, the Commission is authorized to accept assistance in such functions as injury data collection, investigation and educational programs from any state local authority engaged in product safety or consumer protection activities. This assistance is generally furnished pursuant to a contract or grant between the Commission and the State or local jurisdiction. To coordinate these programs, the Commission has encouraged States to consolidate their product safety related functions and to provide that a single official be the "State Designee" for purposes of administration of contracts and grants and to act as liaison with the Commission.

The commenter maintains that such a "State Designee," who would be uniquely qualified to serve as a state government representative on the PSAC or other advisory committee, would be precluded from doing so under the Conflict of Interest provisions as written. This would, in the commenter's view, have the effect of denying to the PSAC valuable expertise and input or, more importantly from the commenter's viewpoint, interfering with Federal-state cooperation if an existing State Designee opted for advisory committee membership and relinquished the position of "State Designee." This situation is likely to arise since every state has such a "State Designee." As a solution, the commenter suggests exemption from the provisions of § 1018.34 (a) and (b) for state and local government employees who desire to serve on an advisory committee. This exemption would, in the view of the commenter, encourage state and local government participation in Commission supported contracts and grants in appropriate areas as well as on advisory committees and would further Federal-state cooperation in both areas.

In the Commission's view, the potential harm to the integrity and independence of advisory committees posed by a state government official serving as a "State Designee" and at the same time as an advisory committee member is minimal compared to the potential interference with and damage to the program of Federal-state cooperation. In light of the fact that such cooperation through contracts and grants is mandated by the CPSA, the element of discretion otherwise present in the negotiated procurement and grants administration process is absent, and the potential for improper influence or the appearances thereof is minimal. Accordingly, the regulations have been amended to exempt state and local government officials from the application of § 1018.34 (a) and (b).

5. Subsequent to promulgation of these regulations, the Commission decided that appointees who are appointed to fill unexpired terms on a committee may also be eligible for appointment to a full two-year term. Therefore, § 1018.17(c) (formerly numbered § 1018.16(c)) has been amended to so provide.

6. Subsequent to promulgation of these regulations, Pub. L. 94-284 (the Consumer Product Safety Improvements Act of 1976) was enacted amending section 17(a) of the Flammable Fabrics Act (15 U.S.C. 1204(a)) regarding the composition of the membership of the National Advisory Committee for the Flammable Fabrics Act.

In addition, prior to promulgation of these regulations the Commission, in order to implement the statutory requirements of balanced membership, decided to change the membership composition of the National Advisory Committee for the Flammable Fabrics Act (NACFFA) and the Technical Advisory Committee on Poison Prevention Packaging (TACPPP) (see 39 FR 1381, January 8, 1974).

The Commission determined that the NACFFA would be composed of twenty members, equally divided between representatives of the consuming public and representatives of manufacturers and distributors subject to the Flammable Fabrics Act. The Commission determined that the TACPPP would be composed of eighteen members, the statutory maximum, eight representative of the consuming public, eight representative of manufacturers subject to the Act and manufacturers of packages and closures for household substances and one each from the Departments of Health, Education, and Welfare, and Commerce. The Commission further decided that scientists with expertise related to the Act and licensed medical practitioners could serve on the TACPPP as representatives either of the consuming public or manufacturers, depending on their employment background.

The Product Safety Advisory Council, as specified in section 28(a) of the Consumer Product Safety Act (15 U.S.C. 2077 (a)), is composed of fifteen members, five representing consumer product industries, five representative of consumers and consumer organizations and five representative of Federal, State and local government agencies.

Accordingly, the regulations have been amended by adding a § 1018.15, Membership Composition which sets forth the membership composition of the Commission's statutory advisory committees as discussed above. Former §§ 1018.15 and 1018.16 are renumbered § 1018.16 and § 1018.17 respectively.

Having considered the comments received and other relevant material, the Commission concludes that the regulations shall be amended as set forth below.

Accordingly, Title 16, Chapter II, Subchapter A of the Code of Federal Regulations, as promulgated on September 24, 1975 (40 FR 43886), is revised as set forth below:

Subpart A—General Provisions

Sec.
1018.1 Purpose.
1018.2 Definitions.
1018.3 Policy.
1018.4 Applicability.
1018.5 Advisory committee management officer.

Subpart B—Establishment of Advisory Committees

1018.11 Charters.
1018.12 Statutory advisory committees.
1018.13 Non-statutory advisory committees.
1018.14 Non-Commission established advisory committees.
1018.15 Membership composition.
1018.16 Membership selection.
1018.17 Appointments.

Subpart C—Operation of Advisory Committees

1018.21 Calling of meetings.
1018.22 Notice of meetings.
1018.23 Designated commission employee.
1018.24 Agenda.
1018.25 Minutes and meeting reports.
1018.26 Advisory functions.
1018.27 Public participation.
1018.28 Records and transcripts.
1018.29 Appeals under the Freedom of Information Act.

Subpart D—Administration of Advisory Committees

Sec.
1018.31 Support services.
1018.32 Compensation and travel expenses.
1018.33 Change of status.
1018.34 Conflict of interest.
1018.35 Termination of membership.

Subpart E—Records, Annual Reports, and Audits

1018.41 Agency records on advisory committees.
1018.42 Annual report.
1018.43 Comprehensive review.

Subpart F—Termination and Renewal

1018.61 Statutory advisory committees.
1018.62 Non-Statutory advisory committees.

AUTHORITY: Sec. 8, Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. I).

Subpart A—General Provisions

§ 1018.1 Purpose.

This part contains the Consumer Product Safety Commission's regulations governing the establishment, operations and administration of advisory committees under its jurisdiction. These regulations are issued pursuant to section 8(a) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), and supplement Executive Order No. 11769 (39 FR 7125 (1974)) and Office of Management and Budget Circular No. A-63 (Rev.) (39 FR 12369 (1974)).

§ 1018.2 Definitions.

(a) "Advisory Committee Act" or "Act" means the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I (1974)).

(b) "OMB Circular No. A-63" means Office of Management and Budget Circular No. A-63 (Rev.), entitled "Advisory Committee Management" (39 FR 12369, April 5, 1974), as amended.

(c) "Advisory Committee" means any committee, board, commission, council, conference, panel, task force or other similar group, or any subcommittee or other subgroup, thereof, which is established or used by the Commisison in the interest of obtaining advice or recommendations and which is not composed wholly of full-time officers or employees of the Federal Government.

(d) "Statutory advisory committee" means an advisory committee established or directed to be established by Congress.

(e) "Non-statutory advisory committee" means an advisory committee established by the Commission, including a committee which was authorized, but not established by Congress.

(f) "Ad hoc advisory committee" means a non-continuing, non-statutory advisory committee established by the Commission for the stated purpose of providing advice or recommendations regarding a particular problem which must be resolved immediaely or within a limited period of time.

(g) "Non-Commission established advisory committee" means an advisory committee established by a Federal, State, or local instrumentality other than the Commission, or by a private organization or group and utilized by the Commission for advisory services.

(h) "OMB Secretariat" means the Committee Management Secretariat of the Office of Management and Budget.

(i) "Chairman" means the Chairman of the Consumer Product Safety Commission.

§ 1018.3 Policy.

In application of this part, Commission officials shall be guided by the Advisory Committee Act, the statutes creating the Commission's advisory committees, and by the directives in Executive Order No. 11769 and OMB Circular No. A-63. Principles to be followed include:

(a) Limiting the number of advisory committees to those that are essential and terminating any committee not fulfilling its purpose;

(b) Insuring effective use of advisory committees and their recommendations, while assuring that decisional authority is retained by the responsible Commission officers;

(c) Providing clear goals, standards, and uniform procedures with respect to the establishment, operation, and administration of advisory committees;

(d) Ensuring that adequate information is provided to the public regarding advisory committees; and

(e) Ensuring adequate opportunities for access by the public to advisory committee meetings and information.

§ 1018.4 Applicability.

(a) This part shall apply to all advisory committee (whether statutory or non-statutory) subject to the jurisdiction of the Commission. This part also shall apply to ad hoc advisory committees and non-Commission established advisory committees when they are performing advisory services for the Commission.

(b) Nothing in this part shall apply to any of the following types of organizations:

(1) Any local civic group whose primary function is that of rendering a public service with respect to a Federal program;

(2) Any state or local government committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies;

(3) Any committee whether advisory, interagency, or intra-agency which is composed wholly of full-time officers or employees of the federal government;

(4) Persons or organizations having contractual relationships with the Commission; and,

(5) Persons or organizations developing consumer product safety standards under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056).

§ 1018.5 Advisory Committee Management Officer.

The Chairman shall designate an Advisory Committee Management Officer who shall:

(a) Exercise control and supervision over the establishment, procedures, and accomplishments of all advisory committees established or utilized by the Commission;

(b) Assemble and maintain the reports, records, and other papers of any such committee during its existence, and carry out, on behalf of the Secretary of the Commission, the provisions of section 552 of Title 5, United States Code (Freedom of Information Act) and the Commission's Procedures for Disclosure or Production of Information Under the Freedom of Information Act (16 CFR Part 1015) with respect to such reports, records, and other papers; and

(c) Perform such other functions as specified in this part.

Subpart B—Establishment of Advisory Committees

§ 1018.11 Charters.

(a) No advisory committee shall meet or take any action until its charter has been filed with the OMB Secretariat in accordance with the requirements of section 9(c) of the Federal Advisory Committee Act.

(b) The Advisory Committee Management officer shall have responsibility for the preparation and filing of charters.

§ 1018.12 Statutory Advisory Committees.

As of the effective date of this part, the Commission has three statutory advisory committees:

(a) The Product Safety Advisory Council, established under section 28 of the Consumer Product Safety Act (Pub. L. 92-573, 15 U.S.C. 2077);

(b) The National Advisory Committee for the Flammable Fabrics Act, established by the Department of Commerce pursuant to section 17 of the Flammable Fabrics Act (Pub. L. 90-189, 15 U.S.C. 1204) and transferred to the Commission on May 14, 1973 by section 30(b) of the Consumer Product Safety Act (Pub. L. 92-573, 15 U.S.C. 2079(b)); and

(c) The Technical Advisory Committee on Poison Prevention Packaging, established under the Department of Health, Education and Welfare by section 6(a) of the Poison Prevention Packaging Act (Pub. L. 91-601, 15 U.S.C. 1475(a)) and transferred to the Consumer Product Safety Commission on May 14, 1973 by section 30(a) of the Consumer Product Safety Act (Pub. L. 92-573, 15 U.S.C. 2079(a)).

§ 1018.13 Non-Statutory Advisory Committees.

(a) In proposing to establish a non-statutory advisory committee, the Commission shall follow the procedural requirements of section 9(a)(2) of the Advisory Committee Act and section 6(a) of OMB Circular No. A-63.

(b) A non-statutory advisory committee shall not be established if the proposed function can be performed effectively by Commission personnel, by an existing advisory committee, or by another Federal agency.

§ 1018.14 Non-Commission established Advisory Committees.

(a) To the extent practicable, the Commission shall utilize advisory committees already established by Federal,

State, or local government or by private organizations, rather than establish a new advisory committee or expand the functions of an existing Commission advisory committee.

(b) In utilizing a non-Commission established advisory committee, Commission officials shall follow the applicable provisions of this part and the requirements of the Advisory Committee Act.

§ 1018.15 Membership composition.

(a) The Product Safety Advisory Council, as specified in section 28(a) of the Consumer Product Safety Act (Pub. L. 92-573, 15 U.S.C. 2077(a)), consists of fifteen members, five of whom shall be selected from governmental agencies including Federal, State and local governments; five of whom shall be selected from consumer product industries including at least one representative of small business; and five of whom shall be selected from among consumer organizations, community organizations, and recognized consumer leaders.

(b) The National Advisory Committee for the Flammable Fabrics Act, as specified in section 17(a) of the Flammable Fabrics Act (Pub. L. 90-189, 15 U.S.C. 1204(a)), as amended by the Consumer Product Safety Commission Improvements Act of 1976 (Pub. L. 94-284, 90 Stat. 514), must consist of not less than nine members, fairly representative of manufacturers, distributors and the consuming public. The representatives of manufacturers must include representatives from the natural fiber producing industry, the man-made fiber producing industry and manufacturers of fabrics, related materials, apparel or interior furnishing. In accordance with the statutory requirements and to ensure balanced representation, the Commission has determined that the Committee shall be composed of twenty members, ten of whom are representative of the consuming public and ten of whom are representative of manufacturers and distributors.

(c) The Technical Advisory Committee on Poison Prevention Packaging, as specified in section 6(a) of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 15 U.S.C. 1475(a)), must consist of not more than eighteen members who are representative of (1) The Department of Health, Education and Welfare, (2) the Department of Commerce, (3) manufacturers of household substances subject to the Act, (4) scientists with expertise related to this Act and licensed practitioners in the medical field, (5) consumers, and (6) manufacturers of packages and closures for household substances. In accordance with the statutory requirements and to ensure balanced representation between consumers and manufacturers, the Commission has determined that the Committee shall be composed of eighteen members, one each from the government agencies, eight representatives of consumers and eight representatives of the manufacturing categories provided in the Act. Scientists with expertise related to the Act and licensed medical practitioners may be represented within either the consumer or manufacturing category depending upon their employment background.

§ 1018.16 Membership selection.

(a) Whenever new applicants are required for a Commission advisory committee, public notice will be issued in the FEDERAL REGISTER inviting individuals to submit, on or before a specified date, applications or nominations for membership.

(b) An applicant for membership on an advisory committee shall disclose all affiliations, either paid or as a volunteer, that bear any relationship to the subject area of product safety or to membership on the advisory committee. This disclosure shall include both current affiliations and relevant past affiliations.

(c) The Secretary of the Commission shall, from time to time, appoint a Candidate Evaluation Panel consisting of qualified staff members of the Commission, including the Advisory Committee Management Officer.

(d) The Candidate Evaluation Panel, using selection criteria established by the Commission, shall evaluate all candidates and submit to the Commissioners the names of those candidates it recommends for membership. Where possible, at least three candidates shall be recommended for each appointment to be made. Final selection for membership shall be made by the Commissioners.

(e) The membership of each Commission Advisory Committee shall be fairly balanced in terms of geographic location, age, sex, and race.

§ 1018.17 Appointments.

(a) The Chairman shall appoint as members to advisory committees those persons selected by the Commissioners.

(b) The term of appointment to an advisory committee shall be for two years, unless otherwise specified by the Commission. To promote maximum participation, an advisory committee member may serve for only one consecutive full term. This subsection shall not be deemed to affect the term of appointment of any present member of an advisory committee in effect on the original effective date of this part, September 24, 1975.

(c) A vacancy that occurs during the term of an appointment normally will be filled by the Commission from the applications or nominations on file. Appointment to any such vacancy will be for the unexpired portion of the original appointment. Appointees to such an unexpired term may be reappointed for a full two-year term.

Subpart C—Operation of Advisory Committees

§ 1018.21 Calling of meetings.

Advisory committees shall, as a general rule, meet four times per year. No advisory committee shall hold a meeting without advance approval of the Chairman or the Commission official designated under § 1018.23(a). Before giving such advance approval, the Chairman or Commission official shall notify the Commission of the date of the proposed meeting.

§ 1018.22 Notice of meetings.

(a) Meetings shall be called by written and/or oral notice to all members of the advisory committee.

(b) Notice of each advisory committee meeting shall be published in the FEDERAL REGISTER as well as other means to give widespread public notice, at least 15 calendar days before the date of the meeting, except that shorter notice may be provided in emergency situations. Reasons for such emergency exceptions shall be made part of the meeting notice.

(c) A meeting notice shall include:

(1) The official designation of the committee;

(2) The address and site of the meeting;

(3) The time of the meeting;

(4) The purpose of the meeting, including where appropriate, a summary of the agenda;

(5) Whether, or the extent to which, the public will be permitted to attend or participate;

(6) An explanation of how any person who wishes to do so may file a written statement with the committee before, during, or after the meeting; and

(7) The procedure by which a public attendee may present an oral statement or question to members of the committee.

§ 1018.23 Designated Commission employee.

(a) The Chairman shall designate a member of the Commission or other Commission officer or employee to chair or attend each meeting of each advisory committee.

(b) Unless otherwise provided in the statute creating a statutory advisory committee, the committee normally will be chaired, on a rotating basis, by a member of the Commission.

(c) No advisory committee shall conduct any meeting in the absence of the officer or employee designated under paragraph (a) of this section.

(d) The officer or employee designated under paragraph (a) of this section is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

§ 1018.24 Agenda.

Prior to each advisory committee meeting, the Advisory Committee Management Officer shall prepare and, after approval by the officer or empolyee designated under § 1018.23(a), shall distribute to each committee member the agenda for that meeting. The agenda for a meeting shall list the matters to be discussed at the meeting and shall indicate whether and when any part of the meeting will concern matters which are exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552(b) or section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2045(a)(2))).

§ 1018.25 Minutes and meeting reports.

(a) The Advisory Committee Management Officer shall be responsible for the preparation of detailed minutes of each meeting of each advisory committee. The minutes shall include at least the following:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff and Commission employees present at the meeting;

(3) A complete summary of all matters discussed and conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee; and

(5) A description of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting.

(b) The chairman of the advisory committee shall certify the accuracy of the minutes.

(c) Whenever a non-Commission established committee convenes and, at the request of the Commission, a portion of the session is allocated to the rendering of advisory services to the Commission, the Advisory Committee Management Officer shall attend and prepare minutes for that portion of the meeting in accordance with this section.

§ 1018.26 Advisory functions.

(a) Unless otherwise specifically provided by statute, advisory committees shall be utilized solely for advisory functions.

(b) The Commission shall ensure that the advice and recommendations of advisory committees shall not be in appropriately influenced by the Commission, its staff, or by any special interest, but will be the result of the advisory committee's independent judgment.

§ 1018.27 Public participation.

(a) The Commission is committed to a policy of encouraging public participation in its activities and will hold all advisory committee meetings open to the public.

(b) The guidelines in section 8(c) of OMB Circular A-63 shall be followed in providing public access to advisory committee meetings.

§ 1018.28 Records and transcripts.

(a) Subject to section 552 of title 5, United States Code (Freedom of Information Act) and 16 CFR 1015 (Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act), the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agendas or other documents which were made available to or prepared for or by an advisory committee shall be made available for public inspection and copying in the Commission's Office of the Secretary.

(b) Advisory Committee documents shall be made available until the advisory committee ceases to exist. Disposition of the advisory committee documents shall be determined by the Secretary of the Commission at that time.

§ 1018.29 Appeals under the Freedom of Information Act.

Appeals from the denial of access to advisory committee documents shall be considered in accordance with the Commission's Procedures for Disclosure or Production of Information under the Freedom of Information Act (16 CFR 1015).

Subpart D—Administration of Advisory Committees

§ 1018.31 Support services.

Unless the stautory authority for a particular advisory committee provides otherwise, the Advisory Committee Management Officer shall be responsible for providing and overseeing all necessary support services for each advisory committee established by or reporting to the Commission. Support services include providing committee staff, meeting rooms, supplies, and funds, including funds for the publication of reports.

§ 1018.32 Compensation and travel expenses.

(a) A single rate of compensation will be offered to members of all advisory committees with the exception of government employees and those individuals whose company or organization prohibits such payment. This rate shall be $100 per day for each day in attendance at the meeting and for each day of travel.

(b) The Commission shall determine per diem and travel expenses for members, staffs, and consultants in accordance with section 7(d) of the Advisory Committee Act and section 11 of OMB Circular No. A-63.

(c) Members of advisory committees, while engaged in the performance of their duties away from their homes or regular place of business, may be allowed travel expenses including per diem in lieu of expenses as authorized by 5 U.S.C. 5703.

§ 1018.33 Change of status.

Any advisory committee member who changes his or her affiliation or who assumes an additional affiliation, so as to actually or potentially affect his or her representational capacity on an advisory committee (upon which the member's application was based), shall immediately notify, in writing, the Advisory Committee Management Officer. Such notification shall include all relevant information concerning the change in affiliation and a statement by the member expressing his or her opinion regarding the implications of such change. The notification and any other relevant information shall be evaluated by the Commissioners to determine the appropriateness of the member's continued membership on the advisory committee.

§ 1018.34 Conflict of interest.

Members of the Commission's statutory advisory committees are not legally subject to the standards of conduct and conflict of interest statutes and regulations applicable to Commission employees. However, it is important to avoid situations in which a member of an advisory committee has an actual or apparent conflict of interest between the member's private interests (or the interests of the member's organization) and the member's interest in properly performing his or her duties as an advisory committee member. To preclude any such actual or apparent conflict of interest, committee members shall be subject to the following guidelines:

(a) Committee members should not personally participate, either for themselves or on behalf of an organization, in negotiations, or the preparation of negotiations, for contracts with or grants from the Commission. Nor should committee members, either as an individual or on behalf of an organization, become personally involved in the performance of work under such a negotiated contract or grant awarded by the Commission. Committee members may participate in preparing bids for and performing work under advertised contracts where price is the single factor in the determination of award.

(b) Committee members should not become personally involved in the preparation or submission of a proposal to develop a safety standard or regulation under any of the Acts administered by the Commission.

(c) Committee members representing anyone in a professional capacity in a proceeding before the Commission should, pursuant to paragraph (e) and (f) of this section, advise the committee chairperson and the other members of the committee on which he or she serves of the representation prior to the committee's discussion regarding that proceeding. Where the chairperson of the committee determines that the representation involves a conflict or the appearance of a conflict of interest, the member will be asked to withdraw from the discussion of the proceeding. In circumstances where withdrawal from the committee's discussion or consideration of the matter is determined by the Commission to be insufficient to avoid a conflict or apparent conflict of interest, continued representation may be considered incompatible with membership on the committee.

(d) Committee members should exercise caution to ensure that their public statements are not interpreted to be official policy statements of the Commission.

(e) Committee members shall disclose to the committee chairperson and to the other members of the committee on which he or she serves, any special interest in a particular proceeding or matter then pending before the committee which in any way may affect that member's position, views or arguments on the particular proceeding or matter. The disclosure shall be made orally prior to the commencement of the discussion. "Special interest" is not intended to include a member's general interest in presenting a position, views, or arguments in his or her representational capacity.

(f) Where the chairperson of the committee determines that the disclosure referred to in paragraph (e) of this section reveals a conflict or apparent conflict of interest with respect to a member's involvement in the committee's consideration or discussion of a particular matter, the member will be asked to withdraw from the discussion of the matter.

(g) The provisions of paragraphs (a) and (b) of this section do not apply to state and local government officers and employees.

§ 1018.35 Termination of membership.

Advisory committee membership may be terminated at any time upon a determination by the Commission that such action is appropriate.

Subpart E—Records, Annual Reports and Audits

§ 1018.41 Agency records on advisory committees.

(a) In accordance with section 12(a) of the Advisory Committee Act, the Advisory Committee Management Officer shall maintain, in the Office of the Secretary, records which will fully disclose the nature and extent of the activities of each advisory committee established or utilized by the Commission.

(b) The records shall include a current financial report itemizing expenditures and disclosing all funds available for each advisory committee during the current fiscal year.

(c) The records shall also include a complete set of the charters of the Commission's advisory committee and copies of the annual reports on advisory committees.

§ 1018.42 Annual report.

(a) The Advisory Committee Management Officer shall prepare an annual report on the Commission's advisory committees for inclusion in the President's annual report to Congress as required by section 6(c) of the Advisory Committee Act. This report shall be prepared and submitted in accordance with General Services Administration guidelines (39 FR 44814, December 27, 1974).

(b) Results of the annual comprehensive review of advisory committee made under § 1018.43 shall be included in the annual report.

§ 1018.43 Comprehensive review.

A comprehensive review of all Commission established or utilized advisory committees shall be made annually in accordance with section 10 of the OMB Circular No. A-63, as amended, and shall be submitted to the OMB Secretariat by November 30 of each year.

Subpart F—Termination and Renewal

§ 1018.61 Statutory advisory committees.

A new charter shall be filed for each statutory advisory committee in accordance with section 9(c) of the Advisory Committee Act and § 1018.11 upon the expiration of each successive two-year period following the date of enactment of the statute establishing or requiring the establishment of the committee.

§ 1018.62 Non-Statutory advisory committees.

(a) Each non-statutory advisory committee established by the Commission after the effective date of this part shall terminate not later than two years after its establishment unless prior to that time it is renewed in accordance with paragraph (c) of this section.

(b) Each non-statutory advisory committee which is renewed by the Commission shall terminate not later than two years after its renewal unless prior to that time it is again renewed in accordance with paragraph (c) of this section.

(c) Before a non-statutory advisory committee can be renewed by the Commission, the chairman shall inform the OMB Secretariat by letter not more than 60 days nor less than 30 days before the committee expires of the following:

(1) His or her determination that renewal is necessary and is in the public interest;

(2) The reasons for his or her determination;

(3) The Commission's plan to attain balanced membership of the committee, and;

(4) An explanation of why the committee's functions cannot be performed by the Commission or by another existing advisory committee.

(d) If the OMB Secretariat concurs, the Chairman shall certify in writing that the renewal of the advisory committee is in the public interest and shall publish notice of the renewal in the FEDERAL REGISTER and shall file a new charter.

PART 1609—NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT—[REVOKED]

Part 1609 is removed.

Effective date: The regulation promulgated in this document shall become effective October 18, 1976.

Dated: October 13, 1976.

SADYE E. DUNN,
Secretary, Consumer Product Safety Commission.

[FR Doc.76-30437 Filed 10-15-76;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

[FHWA Docket No. 76-10]

PART 750—HIGHWAY BEAUTIFICATION

Interim Regulations for Signs Exempt From Removal in Defined Areas

• *Purpose.* The Federal Highway Administration issues interim regulations to establish interim procedures by which the States may apply for an exemption for signs giving directional information to goods and services in the interest of the traveling public, which are located in areas which would suffer substantial economic hardship if such signs were removed. The regulations appear as Subpart E, Part 750, Title 23, Code of Federal Regulations. •

A new subsection, 131(o), was added to 23 U.S.C. 131, by 122(b) of the Federal-Aid Highway Act of 1976, Pub. L. 94-280, May 5, 1976, 90 Stat. 425, which provides that:

> (o) The Secretary may approve the request of a State to permit retention in specified areas defined by such State of directional signs, displays, and devices lawfully erected under State law in force at the time of their erection which do not conform to the requirements of subsection (c), where such signs, displays, and devices are in existence on the date of enactment of this subsection and where the State demonstrates that such signs, displays, and devices (1) provide directional information about goods and services in the interest of the traveling public, and (2) are such that removal would work a substantial economic hardship in such defined area.

Subsection (c) defines effective control of outdoor advertising, which a State must exercise in order to remain in compliance with 23 U.S.C. 131.

In order to immediately implement this amendment, the Federal Highway Administration is issuing interim regulations, pursuant to which the States may apply for the exemption provided for in section 131(o).

Primary responsibility for analyzing both the geographic limits of the defined area in which the economic impact may be felt and the degree of economic impact on such areas is left to the States. This subpart requires that the States use sound economic methods in making the necessary determinations regarding the size and location of the defined area, the degree of economic impact, and whether such impact is substantial throughout the area.

The States are also permitted to determine what types of goods and services it wishes to qualify for exemption. The Federal law permits the States to seek exemption only for signs giving directional information to goods and services in the interest of the traveling public. Non-directional signs, signs primarily designed to advertise products, rather than giving directional information, and signs advertising goods and services not in the interest of the traveling public cannot be exempted.

Exempt signs must be legally erected and maintained and must have carried the directional message qualifying it on May 5, 1976. Exempt signs continue to be nonconforming signs, and must be maintained as such, except that States will not be required to remove them, even as funds become available. The advertised enterprise must remain unchanged. However, except for this restriction, message changes are allowed.

The States are not required to apply for the exemptions permitted under this subpart. The States are free to impose such stricter standards on exempt signs and areas as they choose. Also, the States may continue to acquire exempted signs at the request of the sign owner.

Those desiring to comment on these interim regulations are asked to submit their views, data, and arguments in writing. Communications should identify the docket number (FHWA Docket No. 76-10), and be submitted in duplicate to the Federal Highway Administration, Room 4230, 400 7th Street, SW., Washington, D.C. 20590. All comments received on or before December 2, 1976 (the closing date), will be considered. Comments will be available both before and after the closing date at the above address. It is the intention of the Federal Highway Administration to issue final rules in this matter after the program under the interim rules has been reviewed and comments received pursuant to this notice have been analyzed.

The material in these regulations relates only to a grant program of the Federal Highway Administration. The relevant provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

The regulation set forth below is effective on October 18, 1976.

Issued: October 13, 1976.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Chapter I of Title 23 of the Code of Federal Regulations is amended by adding a new Subpart E, Part 750, as follows:

Subpart E—Signs Exempt From Removal in Defined Areas

Sec.
750.501 Purpose.
750.502 Applicability.
750.503 Exemptions.

AUTHORITY: 23 U.S.C. 131 and 315, 49 CFR 1.48, 23 CFR 1.32.

Subpart E—Signs Exempt From Removal in Defined Areas

§ 750.501 Purpose.

This subpart sets forth the procedures pursuant to which a State may, if it desires, seek an exemption from the acquisition requirements of 23 U.S.C. 131 for signs giving directional information about goods and services in the interest of the traveling public in defined areas which would suffer substantial economic hardship if such signs were removed. This exemption may be granted pursuant to the provisions of 23 U.S.C. 131(o).

§ 750.502 Applicability.

The provisions of this subpart apply to signs adjacent to the Interstate and primary systems which are required to be controlled under 23 U.S.C. 131.

§ 750.503 Exemptions.

(a) The Federal Highway Administration (FHWA) may approve a State's request to exempt certain nonconforming signs, displays, and devices (hereinafter called signs) within a defined area from being acquired under the provisions of 23 U.S.C. 131 upon a showing that removal would work a substantial economic hardship throughout that area. A defined area is an area with clearly established geographical boundaries defined by the State which the State can evaluate as an economic entity. Neither the States nor FHWA shall rely on individual claims of economic hardship. Exempted signs must:

(1) Have been lawfully erected prior to May 5, 1976, and must continue to be lawfully maintained.

(2) Continue to provide the directional information to goods and services offered at the same enterprise in the defined area in the interest of the traveling public that was provided on May 5, 1976. Repair and maintenance of these signs shall conform with the State's approved maintenance standards as required by Subpart G of this part.

(b) To obtain the exemption permitted by 23 U.S.C. 131(o), the State shall establish:

(1) Its requirements for the directional content of signs to qualify the signs as directional signs to goods and services in the defined area.

(2) A method of economic analysis clearly showing that the removal of signs would work a substantial economic hardship throughout the defined area.

(c) In support of its request for exemption, the State shall submit to the FHWA:

(1) Its requirements and method (see § 750.503(b)).

(2) The limits of the defined area(s) requested for exemption, a listing of signs to be exempted, their location, and the name of the enterprise advertised on May 5, 1976.

(3) The application of the requirements and method to the defined areas, demonstrating that the signs provide directional information to goods and services of interest to the traveling public in the defined area, and that removal would work a substantial economic hardship in the defined area(s).

(4) A statement that signs in the defined area(s) not meeting the exemption requirements will be removed in accordance with State law.

(5) A statement that the defined area will be reviewed and evaluated at least every three (3) years to determine if an exemption is still warranted.

(d) The FHWA, upon receipt of a State's request for exemption, shall prior to approval:

(1) Review the State's requirements and methods for compliance with the provisions of 23 U.S.C. 131 and this subpart.

(2) Review the State's request and the proposed exempted area for compliance with State requirements and methods.

(e) Nothing herein shall prohibit the State from acquiring signs in the defined area at the request of the sign owner.

(f) Nothing herein shall prohibit the State from imposing or maintaining stricter requirements.

[FR Doc.76-30428 Filed 10-15-76;8:45 am]

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER (FEDERAL HOUSING ADMINISTRATION), DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER THE NATIONAL HOUSING ACT

[Docket No. R-76-320]

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Eligibility Requirement for Existing Multifamily Housing

On May 14, 1976, an interim regulation was published in the FEDERAL REGISTER at 41 FR 19935 amending §§ 207.32a and 207.259(a) of Title 24 of the Code of Federal Regulations to provide an adequate refinancing program, pursuant to section 223(f), for existing multifamily projects which were financed by uninsured loans from State and local agencies. One of the eligibility requirements is that the State or local agency enter into an agreement with the Federal Housing Commissioner for reimbursement of a portion of the insurance claims paid by the Commissioner on a portfolio of mortgages insured pursuant to the program. Interested parties were given the opportunity to submit, not later than June 14, 1976, data, views and recommendations regarding the interim regulation. We received two comments on the interim regulations. One of the comments suggested that there should be no premium charge made by the Commissioner for insuring these mortgages and that HUD should absorb the cost. The Commissioner is required by the National Housing Act to charge a premium for the insurance of mortgages. The other comment brought to our attention that § 207.32a(k)(3) should be amended to eliminate the mortgagee as a party to the agreement with the Commissioner and the State to determine the size and amount of the portfolios of mortgages to be insured under the program. We agree that the mortgagees on the insured mortgages would have no interest in the size and amount of the portfolios and that § 207.32a(k)(3) should be amended as suggested.

In addition to the above changes, the Department, through experience with the program, has determined that other changes, mainly of a technical nature, should be made to the interim regulations.

The following changes have been made for amplification or clarification:

1. The word "local" has been added to all of the provisions in which the word "State" appears under § 207.32a(k) to make it clear that local governments as well as State governments are eligible

for participation in the program and are subject to all the requirements of the section.

2. A clause is being added at the end of § 207.32a(k)(3) to explain more fully the terms under which the Commissioner will agree to an increase in the portfolio of mortgages after the payment of an insurance claim by the Secretary.

3. Section 207.32a(k)(4) is being amended to add a provision whereby the money, which must be placed in a special fund to reimburse the Commissioner for payment of insurance claims, may be obtained from a source other than a State appropriation. The amendment will permit the Commissioner, by agreement with the State or locality, to approve of the source of the money and to require that the money be placed in a special fund prior to endorsement of the mortgage for insurance. Therefore, a regulatory requirement limited to a State appropriation would not be necessary.

4. The proviso of § 207.32a(k)(4) is being amended to clarify the computation of the total amount of money which must be reimbursed to the Commissioner by the State or locality for payment of insurance claims on the mortages in the portfolio.

5. Since some of the State and locally assisted projects, which are in need of the financing provided by this section, are cooperatives, we are adding a paragraph to § 207.32a(k) providing for the eligibility of projects owned by cooperative housing corporations provided that they are regulated and supervised by a State or political subdivision thereof.

In order to avoid any confusion, it is noted that the date of "January 31, 1978," wherever it appeared in the preamble to the interim rule was in error and the date of "January 1, 1978", as it appeared in § 207.32a(k)(1) of the interim rule is correct.

Accordingly, §§ 207.32a and 207.259(a) are revised as set forth below:

1. Section 207.32a is amended as follows:

a. By revising paragraph (b)(1);

b. By revising the first sentence in paragraph (c);

c. By revising the first sentence of paragraph (e);

d. By revising the third sentence of paragraph (f);

e. By adding subparagraph (4) to paragraph (j); and

f. By adding paragraph (k), all as set forth below:

§ 207.32a Eligibility of mortgages on existing projects.

* * * * *

(b) * * *

(1) 85 percent (90 percent if the project meets the eligibility requirements contained in paragraph (k) of this section) of the Commissioner's estimate of the value of the project;

* * * * *

(c) *Maximum mortgage amounts—property to be acquired.* If the project is to be acquired by the mortgagor and the purchase price is to be financed with the insured mortgage, the maximum mortgage amount shall not exceed 85 percent (90 percent if the project meets the eligibility requirements contained in paragraph (k) of this section) of the cost of acquisition as determined by the Commissioner. * * *

* * * * *

(e) *Maturity.* The term of the mortgage shall not be less than 10 years, nor shall it exceed the lesser of 35 years (40 years if the project meets the eligibility requirements contained in paragraph (k) of this section) or 75 percent of the estimated remaining economic life of the physical improvements. * * *

(f) *Eligible property.* * * * In addition to the other requirements in this section, projects, except those which meet the requirements of paragraph (k) of this section, must also meet one of the following requirements:

(1) * * *
(2) * * *

* * * * *

(j) *Secondary financing.* * * * (4) For those projects which meet the eligibility requirements contained in paragraph (k) of this section, any additional obligations on the project in connection with the insured transaction shall be in an amount approved by the Commissioner and represented by such credit and security instruments as are approved by the Commissioner.

(k) *Additional eligibility requirements for a mortgage refinancing a project financed with State or local assistance.* Projects which were constructed through State or local assistance shall be entitled to the benefits of the special eligibility provisions contained in this section by meeting the following additional requirements:

(1) Construction of the project must have commenced before December 31, 1975, and the project shall have been fully completed prior to January 1, 1978, and after completion of the project, an application for insurance shall have been filed prior to January 1, 1978.

(2) The project shall have been constructed under a State or local program providing assistance through loans, loan insurance or tax abatement, which form of assistance shall be approved by the Commissioner.

(3) The mortgage which is to be insured on the project is part of a portfolio of mortgages, all of which have been approved for mortgage insurance by the Commissioner. The Commissioner, by agreement with the State or local government, or agency thereof, shall determine the size and amount of an eligible portfolio, and the conditions under which the portfolio may be increased or decreased, including the conditions under which the portfolio may be increased after a claim for insurance benefits has been paid by the Commissioner.

(4) The Commissioner has entered into an agreement with a State or local government, or agency thereof, pursuant to a State or local program, whereby the State has appropriated money, or money will be made available through other sources approved by the Commissioner, which shall be placed in a special fund to be used to reimburse the Commissioner in an amount not less than one-half of the insurance claims which the Commissioner pays on defaulted mortgages within all approved portfolios: *Provided, however,* That such payments shall continue until the total amount paid by the State or local government, or agency thereof, to the Commissioner on each approved portfolio equals a specified percentage of each such portfolio, as approved by the Commissioner, but in no event less than 5 percent of the outstanding principal balances of the mortgages in an approved portfolio and the mortgages removed from the portfolio through the payment of insurance claims. For the purpose of this paragraph, "outstanding principal balance" due on a mortgage shall be that amount which would be due according to the amortization schedule without taking into account prepayments or delinquencies. The payments to the Commissioner by the State or local government, or agency thereof, shall commence on the date of the first claim paid by the Commissioner on a mortgage in a portfolio and shall continue on each and every claim paid thereafter until the State or local government, or agency thereof, has reached the maximum payment set forth in the agreement. The State or local government, or agency thereof, shall agree that the special fund established to reimburse the Commissioner for payment of claims shall remain in existence until payments to the Commissioner have reached the maximum amount specified in the agreement. The agreement shall also contain assurances by the State or local government, or agency thereof, that State law provides that:

(i) The projects securing the mortgages in each portfolio shall not be subject to rent controls by the State, or a political subdivision thereof, or by any authority regulating rents pursuant to State or local law, and

(ii) Any tax abatement or exemption in effect, or established, at the time of application for mortgage insurance shall continue so long as the mortgage is insured or held by the Commissioner, or the project is owned by the Commissioner.

(5) For those projects in which the owner has entered into a contract with the Commissioner for interest reduction payments pursuant to the proviso in Section 236(b) of the National Housing Act, the parties must agree to the modification of the interest reduction contract to reflect changes necessitated by insurance of a mortgage on the project pursuant to this section.

(6) For those projects in which the mortgagor is a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwellings of which is restricted to mem-

bers of such corporation or to beneficiaries of such trust, the mortgagor must be regulated or supervised under State laws or by political subdivisions of States, or agencies thereof. For projects which meet this requirement, the term "tenant" as used in this subpart shall mean a member of a cooperative, the term "rental charge" shall mean the charges under the occupancy agreement of members of the cooperative, and the term "rental unit" shall mean "dwelling unit."

* * * * *

2. Section 207.259(a) shall be amended to read as follows:

§ 207.259 Insurance benefits.

(a) *Method of payment.* Upon either an assignment of the mortgage to the Commissioner or a conveyance of the property to him in accordance with the requirements of § 207.258, payment of an insurance claim shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner at the time of payment, except that where the mortgage is insured pursuant to (1) Section 223(e) of the National Housing Act, or (2) Section 223(f) of the Act and at the time of the insurance endorsement, the mortgage met the special eligibility requirements contained in § 207.32a(k), such claim shall be paid in cash, unless the mortgagee files a written request, with the application, for payment in debentures. A claim paid in cash on a mortgage insured pursuant to Section 223(e) shall be paid from the Special Risk Insurance Fund. If the mortgagee files an application for payment in debentures on a claim on a mortgage insured pursuant to Section 223(e) or 223(f), the claim shall be paid by issuing debentures and by paying any balance in cash.

* * * * *

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective date: This regulation shall be effective on October 18, 1976.

NOTE: It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular A-107.

JAMES L. YOUNG,
Assistant Secretary for Housing,
FHA Commissioner.

[FR Doc.76-30415 Filed 10-15-76;8:45 am]

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Martinez, California

On August 6, 1974, in 39 FR 28250, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Martinez, California. Map No. 065044 Panel 04 indicates that Lot 27, Block 171, Alhambra Valley Estates, Rancho Las Juntas, Martinez, California, as recorded in Assessor's Map Book 162, Page 17, in the office of the Assessor, Contra Costa County, California, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 065044 Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30451 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of San Jacinto, California

On June 25, 1976, in 41 FR 26403, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of San Jacinto, California, Map No. H 065056A Panel 01 indicates that Lots 1 and 2, and the Southeasterly 33 feet of Lot 3 of John J. Inwell's Subdivision of Farm Lots 39 and 41, San Jacinto, California, as recorded in Map Book 4, Page 180, in the office of the Recorder of San Diego County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above mentioned property are within Zone B, and are not within the Special Flood Hazard Area. Accordingly, Map No. H 065056A Panel 01 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on September 28, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30452 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Victorville, California

On June 25, 1976, in 41 FR 26403, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Victorville, California. Map No. H 065068 Panel 03 indicates that Lot 63 and Lot 73, Tract No. 4594, Victorville, California, as recorded in Map Book 70, Pages 61 and 64, in the office of the Recorder of San Bernardino County, California, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is within Zone B, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 065063 Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on September 21, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4123; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 27, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30453 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Arvada, Colorado

On June 25, 1976, in 41 FR 26404, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Arvada, Colorado. Map No. H&I 085072A Panel 04 indicates that Lot 22, Block 7, Woodland Valley Subdivision, Filing No. 7, Arvada, Colorado, as recorded in Plat Book No. 34, Page 20, in the office of the County Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light additional, recently acquired flood information, that the above mentioned property is within Zones B and C. The structure on the above property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above

named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H&I 085072A Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 13, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30454 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 FR 26404 the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the city of Lakewood, Colorado. Map No. H 085075 Panel 06 indicates that Lot 28, Block 14, Meadowlark Hills, Lakewood, Colorado, as recorded in Book 12, Page 2, in the office of the Clerk and Recorder of Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is within Zone C, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 085075 Panel 06 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30455 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Lakewood, Colorado

On June 25, 1976, in 41 FR 26403, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Lakewood, Colorado. Map No. H 085075 07 indicates that property in Meadow Creek Subdivision, Lakewood, Colorado, as recorded in Book 35, Page 35; Book 42, Page 57; and Book 47, Page 4; in the office of the Clerk and Recorder, Jefferson County, Colorado, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above mentioned property described as:

A tract of land located in the SE ¼ of the SW ¼ of Section 1, Township 4 South, Range 69 West of the 6th Principal Meridian, City of Lakewood, Jefferson County Colorado, more particularly described as follows: Beginning at the SW corner of the SE ¼ of the SW ¼ of said Section 1; thence N 0°17'00" E along the West line of said SE ¼ of the SW ¼, 30.00 feet to a point on the Northerly Right of Way line of West 6th Avenue Service Road, said point being the True Point of Beginning; thence N 89°42'00" E along said Right of Way line, 832.05 feet to the SE corner of a tract described in Book 1060 at page 510, Jefferson County Records, and also being the SW corner of Reber Subdivision, a recorded plat in Jefferson County; thence N 0°19'54" E and parallel with the East line of said SE ¼ of the SW ¼, 589.00 feet to the NE corner of parcel D–2, Meadow Creek according to the plat thereof recorded in Plat Book 35, at Page 35, Jefferson County Records; thence N 74°47'42" W along the North line of said Parcel D–2, 224.59 feet to a point on the Westerly line of Meadow Creek Drive, said point also being the NW corner of said Parcel D–2, and the most Northeasterly corner of Block C–2, Meadow Creek Amended Plat No. 1, according to the Plat thereof recorded in Book 42, at Page 57, Jefferson County Records; thence continuing N 74°47'42" W along the Northerly line of said Block C–2, 26.50 feet to a point of curvature; thence along a curve to the right with an arc length of 39.14 feet, a radius of 90.00 feet, and a central angle of 12°27'36", whose chord N 68°33'54" W, 39.07 feet to a point of tangency; thence N 62°20'06" W along said tangent, 75.59 feet to a point of curvature; thence along a curve to the left with an arc length of 86.91 feet, a radius of 180.00 feet, and a central angle of 27°39'54", whose chord bears N 76°10'03" W, 86.07 feet to a point of tangency; thence West along said tangent 67.21 feet to a point of curvature; thence along a curve to the right with an arc length of 95.73 feet, a radius of 180.00 feet, and a central angle of 30°28'24", whose chord bears N 74°45'48" W, 94.61 feet to a point of tangency; thence N 59°31'36" W, along said tangent, 212.10 feet to a point of curvature; thence along a curve to the left with an arc length of 27.26 feet, a radius of 60.00 feet, and a central angle of 26°01'48", whose chord bears N 72°32'33" W, 27.03 feet; thence departing said curve S 18°13'24" W, 105.00 feet to a point on the West line of the SE ¼ of the SW ¼ of said Section 1; thence S 0°28'24" W, 770.00 feet to the True Point of Beginning except that part more particularly described as follows: Beginning at a point on the North line of Parcel D–2, Meadow Creek according to the plat thereof recorded in Plat Book 35 at Page 35, Jefferson County Records, said point bears N 74°47'42" W, a distance of 204.59 feet from the NE corner of said Parcel D–2; thence S 33°47'28" W, 67.50 feet to a point of curvature; thence along a curve to the right with an arc length of 58.51 feet a radius of 73.00 feet, and a central angle of 45°55'18", whose chord bears S 56°45'16" W, 56.95 feet; thence departing said curve N 09°19'00" E, 115.53 feet to a point on the North line of Parcel C–2 Meadow Creek Amended Plat No. 1, according to the Plat thereof recorded in Book 42 at Page 57, Jefferson County Records; thence S 62°20'06" E, 3.72 feet to a point of curvature; thence along a curve to the left with an arc length of 39.14 feet, a radius of 90.00 feet, and a central angle of 12°27'36", whose chord bears S 68°33'54" E, 39.07 feet to a point of tangency; thence S 74°47'42" E, 46.50 feet to the Point of Beginning; and, beginning at the NE corner of the SE ¼, SW ¼ of Section 1, Township 4 South, Range 69 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, as shown on the plat of Meadow Creek as recorded in Jefferson County Records; thence S 0°19'54" W, along the East line of said SW ¼, 482.47 feet; thence S 89°45'00" W, departing said Easterly line, 65.00 feet to a point on the Northerly right of way line of Meadow Creek Road, as shown on Meadow Creek, said point also being the True Point of Beginning; thence S 0°15'00" E, departing said Northerly line, 30.00 feet, to the South right of way line of said Meadow Creek Road; thence N 89°45'00" E, along said Southerly line, 9.46 feet to a point of curve; thence, departing said Southerly line, on a curve to the right having a radius of 20.00 feet and a central angle of 90°34'54", an arc distance of 31.62 feet to the East line of Parcel E_2, Meadow Creek; thence S 0°19'54" E, along said East line, 136.82 feet; thence S 56°45'42" W, departing said East line, 57.66 feet to a point of curve; thence on a curve to the right having a radius of 150.00 feet and a central angle of 54°38'12", an arc distance of 143.04 feet to a point of tangent, said point lying on the North line of the Lakewood-McIntyre Gulch Drainage Easement as shown on the recorded plat of Meadow Creek; thence along said North line, the following courses and distances: 1) N 68°36'06" W, 246.80 feet to a point of curve; 2) thence on a curve to the left having a radius of 400.00 feet and a central angle of 6°11'36", an arc length of 43.24 feet to a point of tangent; 3) thence N 74°47'42" W, along said tangent, 152.42 feet to a point of curve; thence, departing said North line, on a curve to the right having a radius of 20.00 feet and a central angle of 90°48'42", an arc length of 31.70 feet, to a point of tangent; thence N 16°01'00" E, along said tangent, 75.04 feet, to a point of curve on the Easterly right of way line of Meadow Creek Road as shown on the plat of Meadow Creek; thence N 37°23'23" W, departing said Easterly right of way line, 28.99 feet, to a point on the Westerly right of way line of said Meadow Creek Road; thence S 39°56'00" W, departing said Westerly right of way line, 86.54 feet to a point of curve; thence on a curve to the right having a radius of 20.00 feet and a central angle of 85°23'18", an arc length of 29.81 feet to a point of tangent; thence N 54°40'42" W, along said tangent, 180.70 feet to a point on the North line of Parcel E_1, Meadow Creek; thence N 89°45'00" E, along said North line and its extension, 414.36 feet to the East line of a parcel of land recorded in Book 2428 at Page 52, Jefferson County Records; thence N 0°19'54" E, along said East line, 66.98 feet to the North line of Parcel E_3, Meadow Creek; thence N 89°45'00" E, along said North line, 150.00 feet to the Northeast corner of Parcel E_3, thence S 0°19'54" W, along the East line of Parcel E_3, 136.05 feet to the North right of way line of Meadow Creek Drive as shown on the recorded plat of Meadow Creek; thence N 89°45'00" E, along said North right of way line, 251.00 feet to the True Point of Beginning;

with the exception of Lots 8, 9, 20, 21, and the unnumbered lot between Lots 19 and 20, Block C_2, and Parcel E_1, as shown on Meadow Creek—Amended Plat No. 1, recorded in Book 42, Page 57, in the office of the Clerk and Recorder, Jefferson County, Colorado, is within Zone B, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 035075 07 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 21, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-30456 Filed 10-15-76;8:45 am]

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Hamden, Connecticut

On January 16, 1974, in 39 FR 1984, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Hamden, Connecticut. Map No. H 090078 Panel 01 indicates that 55 Huntington Circle, known as Lot 7, Sleepy Hollow, Hamden, Connecticut, as recorded in Map File No. 194R., in the office of the Town Clerk, Hamden, Connecticut, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 090078 Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 16, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 20, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30457 Filed 10-15-76;8:45 am]

[Docket No. FI-290]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Elmhurst, Illinois

On March 3, 1976, in 40 FR 8800, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Elmhurst. Map No. H 170205A Panels 02 & 03 indicates that:

Lots 2–16, Block 10; Lots 3–7, Block 13; Lots 19–23; Block 14; Lot 12, Block 34; and Lot 2, Block 52 of Butterfield Road Addition; Lots 8–10 and 13–20, Block 1 and Lots 6–12 and 14–17, Block 2 of Elmhurst Parkside; Lots 5–7, Block 12; Lots 16 and 17, Block 15; and Lots 5–9 and 21–24, Block 16 of H. O. Stone and Company's Spring Road Addition are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that:

Lots 2–16, Block 10 of Butterfield Road Addition; Lots 18–20, Block 1 and Lots 6–9, Block 2 of Elmhurst Parkside; Lots 5–7, Block 12; Lot 17, Block 15 and Lots 5–9 and 21–24, Block 16 of H. O. Stone and Company's Spring Road Addition and also, the structures on Lots 3–7, Block 13; Lots 19–23, Block 14; Lot 12, Block 34 and Lot 2, Block 52 of Butterfield Road Addition; Lots 8–10 and 13–17, Block 1 and Lots 10–12 and Lots 14–17, Block 2 of Elmhurst Parkside; Lot 16, Block 15 of H. O. Stone and Company's Spring Road Addition of the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 170205A Panel 02 and 03 is hereby corrected to reflect that:

Lots 2–16, Block 10 of Butterfield Road Addition; Lots 18–20, Block 1 and Lots 6–9, Block 2 of Elmhurst Parkside; Lots 5–7, Block 12; Lot 17, Block 15 and Lots 5–9 and 21–24, Block 16 of H. O. Stone and Company's Spring Road Addition and also, the structures on Lots 3–7, Block 13; Lots 19–23, Block 14; Lot 12, Block 34 and Lot 2, Block 52 of Butterfield Road Addition; Lots 8–10 and 13–17, Block 1 and Lots 10–12 and Lots 14–17, Block 2 of Elmhurst Parkside; Lot 16, Block 15 of H. O. Stone and Company's Spring Road Addition of the above property are not within the Special Flood Hazard Area identified on March 23, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 20, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30458 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Palatine, Illinois

On June 25, 1976, in 41 FR 26407, the Federal Insurance Administrator published a list of communities with special hazard areas which included Palatine, Illinois. Map No. H & I 175170A Panel 01 indicates that a portion of the South West ¼ of the South East ¼ of section 10, Township 42 North, Range 10 East of the third Principal Meridian, lying North of the South 6.40—⅓ chains of the South West ¼ of the South East ¼ of Section 10, Palatine, Cook County, Illinois, recorded as Document No. 2239037 in the office of the Recorder of Cook County, Illinois, is in it entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property, which can be described as follows:

Beginning at the southeast corner of the aforesaid tract; thence North along the East line of the aforesaid tract 239 feet to a point; thence Northwesterly along a line which forms an angle of 44° with a prolongation of the last described line 119.5 feet to a point; thence West along a line, parallel to the South line of the aforesaid Tract 263.0 feet to a point; thence Southwesterly along a line which forms an angle of 42° with a prolongation of the last described line 337.5 feet to a point; thence South along a line parallel to the East line of the aforesaid tract 102.5 feet to the South line of the aforesaid tract; thence East along the South line 693.14 feet to the place of beginning;

is not within the Special Flood Hazard Area, but is within Zone B. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 175170A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on March 19, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30459 Filed 10-15-76;8:45 am]

[Docket No. FI-2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Wheeling, Illinois

On July 14, 1976, in 41 FR 28974, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Village of Wheeling. Map No. H 170173 Panel 04 indicates that Palwaukee Industrial Park Subdivision, Lots 1–35, Wheeling, Cook County, Illinois, recorded as Docu-

ment No. 21027923 in the office of the Recorder of Deeds of Cook County, Illinois, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 170173 Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 27, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-30460 Filed 10-15-76;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Indianapolis, Indiana

On May 17, 1974, in 39 FR 17518, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Indianapolis, Indiana. Map No. H 180159 Panel 61 indicates that a parcel of land located at the Northwest corner of South Keystone and East Nelson Avenues, being 2690 South Keystone Avenue, recorded as Document Number 75-54195 in the office of the County Recorder of Marion County, Indiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 180159 Panel 61 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 6, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30461 Filed 10-15-76;8:45 am]

[Docket No. FI-239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Ankeny, Iowa

On April 11, 1974, in 39 FR 13148, the Federal Insurance Administrator published a list of communities with special hazard areas which included Ankeny, Iowa. Map No. H 190226A Panel 01 indicates that 401 and 405 Elm Street, Ankeny, Polk County, Iowa, as recorded in Deedbook 4459, Page 595, in the office of the Recorder of Polk County, Iowa, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 190226A Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 5, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30462 Filed 10-15-76;8:45 am]

[Docket No. FI-255]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Leavenworth, Kansas

On November 28, 1973, in 38 FR 32970, the Federal Insurance Administrator published a list of communities with special hazard areas which included Leavenworth, Kansas. Map No. H 200190 Panel 01 indicates that Kickapoo Court Addition No. 1, Leavenworth, Kansas, as recorded in Book 9, Page 37 of Plat Records in the office of the Register of Deeds, Leavenworth County, Kansas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property, with the exception of the recorded drainage easements, is not within the Special Flood Hazard Area. Accordingly, Map No. H 200190 Panel 01 is hereby corrected to reflect that the above property, with the exception of the recorded drainage easements, is not within the Special Flood Hazard Area identified on November 23, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30463 Filed 10-15-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Louisville, Kentucky

On August 6, 1974, in 39 FR 28255, the Federal Insurance Administrator published a list of communities with special hazard areas which included Louisville, Kentucky. Map No. H 210122 Panel 10 indicates that the Eastern 60 feet of Lot 4 and the Western 20 feet of Lot 5, Section 2, Colonial Hill, being 3009 Colonial Hill Road, Louisville, Jefferson County, Kentucky, as recorded in Platbook No. 9, Page 1, in the office of the Clerk of Jefferson County, Kentucky is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 210122 Panel 10 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30464 Filed 10-15-76;8:45 am]

[Docket No. FI-321]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Louisville, Kentucky

On August 6, 1974, in 39 FR 28255, the Federal Insurance Administrator published a list of communities with special hazard areas which included Louisville, Kentucky. Map No. H 210122 Panel 09 indicates that a parcel of land located at the intersection of the north line of Thornberry Avenue and the southeast line of Bohannon Avenue, being 3217 Bo-

hannon Avenue, Louisville, Jefferson County, Kentucky, as recorded in Deedbook 4863, Page 450, in the office of the Clerk of the County Court of Jefferson County, Kentucky, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 210122 Panel 09 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30465 Filed 10-15-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 FR 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036A Panel 28 indicates that Lot 42, The Meadow Subdivision Unit No. 1, Shreveport, Louisiana, as recorded in Book 1500, Page 19, of the records of Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036A Panel 28 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 3, 1975 and January 9, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

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J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30466 Filed 10-15-76;8:45 am]

[Docket No. FI-842]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Shreveport, Louisiana

On February 3, 1976, in 41 FR 4910, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Shreveport, Louisiana. Map No. H 220036A 28 indicates that Lot 41, The Meadow Subdivision Unit No. 1, Shreveport, Louisiana, as recorded in Book 1500, Page 19, of the records of Caddo Parish, Louisiana, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 220036A 28 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on January 3, 1975 and January 9, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 26080, February 27, 1969 as amended by 39 FR 2787, January 24, 1974.)

Issued August 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30467 Filed 10-15-76;8:45 am]

[Docket No. FI-1134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Fort Kent, Maine

On May 19, 1976, in 41 FR 20558, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fort Kent. Map No. H 230019A 01 indicates that a portion of the property located in Fort Kent, Aroostook County, Maine, as recorded in Deedbook 238, Page 574 in the office of the Aroostook County Registry of Deeds, Aroostook County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that a portion of the above property which can be described as follows:

Commencing at a point being U.S.G.S. bench mark S-86, proceed N. 27° W., approximately 1,000 feet to a point, also being the center line of the Bangor and Aroostook Railroad and the point of beginning; thence S. 77°30' W., approximately 352 feet to a point; thence N. 40°30' W., approximately 237 feet to a point; thence N. 37°00' E., approximately 421 feet to a point; thence N. 31°30' E., approximately 313 feet to a point; thence N. 44°30' E., approximately 383 feet to a point; thence S. 68°30' E., approximately 141 feet to a point; thence S. 23°30' W., approximately 280 feet to a point; thence N. 48°30' E., approximately 605 feet to a point; thence S. 88°30' E., approximately 691 feet to a point; thence S. 17°00' W., approximately 665 feet to a point on the center line of said Bangor and Aroostook Railroad; thence approximately 1,250 feet southwesterly along said center line to the point of beginning.

is not within the Special Flood Hazard Area. Accordingly, Map No. H 230019A 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30468 Filed 10-15-76;8:45 am]

[Docket No. FI-250]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Milford, Maine

On April 25, 1974, in 39 FR 14604, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Town of Milford, Maine. Map No. H 230110 Panel 03 indicates that the Milford Motel Property, located on the west side of Route 2, Milford, Maine, as recorded in Deedbook 2555, Page 29 in the Penobscot County Registry of Deeds, Penobscot County, Maine, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that portions of the above property which can be described as follows:

Beginning at the northeast corner of Maude Martin Lot, at a cement culvert on west side of Route 2 or Main Street in said Milford (V1245:415 Penobscot Registry); thence southerly along westerly side of Main Street, 575 feet, more or less to a 6" granite post; thence north 54° 45' west 141 feet more or less to a point; thence northerly parallel to and 30 feet from the east bank of the Penobscot River to the north lineof Maude Martin Lot; thence south 67° east along north line of Maude Martin Lot to west line of Main Street and point of beginning.

is not within the Special Flood Hazard Area. Accordingly, Map No. H 230110 Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 3, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

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J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30469 Filed 10-15-76;8:45 am]

[Docket No. FI-209]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Yarmouth, Maine

On March 1, 1974, in 39 FR 7935, the Federal Insurance Administrator published a list of communities with special hazard areas which included Yarmouth, Maine. Map No. H 230055 Panel 02 indicates that Lots 14–17, 23 and 27–30, Section B, Northwood Meadows, Yarmouth, Maine, as recorded in Planbook 99, Page 1 of Plats, in the office of the Register of Cumberland County, Maine, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 230055 Panel 02 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on March 1, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30470 Filed 10-15-76;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 44 indicates that Lot 23, Block K of Manhattan Beach Subdivision, being 879 Dividing Road, as recorded in Plat Number 104, Book 3, Folio 38 in the office of Land Records of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 Panel 44 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30471 Filed 10-15-76;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with Special Hazard Areas which included Anne Arundel County, Maryland. Map No. H 240008 28 indicates that 1476 Park Lane, being Lot 33 and part of Lots 32 and 34 of Lakeshore Park, Pasadena, Maryland, as recorded in Book No. 9, Plat No. 521, in the office of Deeds and Records of Anne Arundel County, Maryland is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 28 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680 February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30472 Filed 10-15-76;8:45 am]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Maryland

On November 29, 1974, in 39 FR 41504, the Federal Insurance Administrator published a list of communities with special hazard areas which included Anne Arundel County, Maryland. Map No. H 240008 Panel 62 indicates that Building Number 16, Unit 113, Crofton Towne, Property Regime Number 5, being 1725 Fillmore Court, Crofton, Maryland, as recorded in Platbook 39, Folio 18, in the office of the Clerk of the Circuit Court of Anne Arundel County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above structure is not within the Special Flood Hazard Area. Accordingly, Map No. H 240008 Panel 62 is hereby corrected to reflect that the structure is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30473 Filed 10-15-76;8:45 am]

[Docket No. FI-511]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Harford County, Maryland

On March 20, 1975, in 40 FR 12644, the Federal Insurance Administrator published a list of communities with special hazard areas which included Harford County, Maryland. Map No. H 240040 Panel 26 indicates that Lots 1–6 and 8–12, West Shore Commercial Harford County, Maryland as recorded in Liber H.D.C. No. 34, Folio 76 in the office of the Clerk of Harford County, Maryland, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property, with the exception of the recorded easements, are not within the Special Flood Hazard Area. Accordingly, Map No. H 240040 Panel 26 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 4, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30474 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince George's County, Maryland

On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince George's County, Maryland. Map No. H & I 245208A Panel 33 indicates that Lot 132, Block C, Section One, Rambling Hills Subdivision, Prince George's County, Maryland, as recorded in Plat Book WWW 64, Page 21, in the Office of the Clerk of the Circuit Court of Prince George's County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H & I 245208A Panel 33 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30475 Filed 10-15-76;8:45 am]

[Docket No. 2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince George's County, Maryland

On June 25, 1976, in 41 FR 26408 the Federal Insurance Administrator published a list of communities with special hazard areas which included Prince George's County, Maryland. Map No. H 245208A Panel 55 indicates that Lots 6–8, Block A, Lots 12–14, Block B and Lots 1–3, Block G, Oaklawn Manor, Section 2, Oxon Hill, Prince George's County, Maryland, as recorded in Platbook 63, Plat No. 22 in the office of Land Records of Prince George's County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned properties are within Zone C, and not within the Special Flood Hazard Area.

The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 245208A Panel 55 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 4, 1972.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30476 Filed 10-15-76;8:45 am]

[Docket No. FI-435]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Queen Anne's County, Maryland

On January 3, 1975, in 40 FR 769, the Federal Insurance Administrator published a list of communities with special hazard areas which included Queen Anne's County. Map No. H 240054 Panel 18 indicates that Lot 62, Governor Grayson Manor Plat No. 2, Queen Anne's County, Maryland, as recorded in Platbook C. W. C. No. 2, Folio 40, in the office of the Land Records of Queen Anne's County, Maryland, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the above property, with the exception of the rear 30 feet of the lot, is not within the Special Flood Hazard Area. Accordingly, Map No. H 240054 Panel 18 is hereby corrected to reflect that the above property, with the exception of the rear 30 feet of the lot, is not within the Special Flood Hazard Area identified on December 13, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30477 Filed 10-15-76;8:45 am]

[Docket No. FI-887]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Rockville, Maryland

On February 25, 1976, in 41 FR 8185, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Rockville, Maryland. Map No. H 240051A Panel 03 indicates that Lot 5, Block E, Rockshire Subdivision, Section 2T, Rockville, Montgomery County, Maryland, as recorded in Platbook 92, Plat Number 10,002 in the Montgomery County Office of Deeds and Records is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 240051A Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 5, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30478 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Falmouth, Massachusetts

On June 25, 1976, in 41 FR 26408, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Falmouth, Massachusetts. Map No. H&I 255211 Panel 14 indicates that Lots A and B, East Falmouth, Massachusetts, as recorded in Plan Book 251, Page 61, in the Registry of Deeds of Barnstable County, Massachusetts, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information that Buildings 2, 22, 23, 28, 29, and 31, as shown on the Part I Site Plan, Falmouthport Condominium Plans, are within Zone C, and are not within the Special Flood Hazard Area. Building 30 is within Zone B, and is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H&I 255211 Panel 14 is hereby corrected to reflect that the above structures are not within the Special Flood Hazard Area identified on May 18, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation

of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30479 Filed 10-15-76;8:45 am]

[Docket No. FI-356]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Town of Hingham, Massachusetts

On September 12, 1974, in 39 FR 32894, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Town of Hingham, Massachusetts. Map No. H 250268 Panel 01 indicates that Parcels I, II and III, at 11 Merrill Street, Hingham, Massachusetts, as recorded in Book 4076, Page 371, in the office of the Register of Deeds of Plymouth County, Massachusetts, are in entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 250268 Panel 01 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on September 6, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30480 Filed 10-15-76;8:45 am]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Hudson, Massachusetts

On September 7, 1974, in 39 FR 28436, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Hudson, Massachusetts. Map No. H 250197 Panel 02 indicates that property known as 59 Fort Meadow Drive, Hudson, Massachusetts, as recorded in Book 12949, Page 437, in the Registry of Deeds, Middlesex South District, Middlesex County, Massachusetts, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 250197 Panel 02 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30481 Filed 10-15-76;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Missouri

On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A Panel 04 indicates that Lot 12, Block 3, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 290171A 04 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.30482 Filed 10-15-76;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grandview, Missouri

On February 13, 1976, in 41 FR 6736, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Grandview, Missouri. Map No. H 290171A Panel 04 indicates that Lot 19, Block 3, River Oaks First Plat, Grandview, Missouri, as recorded in Book 33, Page 86, in the office of the Recorder of Deeds of Jackson County, Missouri, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 290171A Panel 04 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on July 19, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30483 Filed 10-15-76;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 03 indicates that Lot 28, Block 4106, at 275 South Irving Street, Ridgewood, New Jersey, as recorded in Book 2292, Page 440, and Book 2730, Page 587, in the office of the Clerk of Bergen County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340067 Panel 03 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30484 Filed 10-15-76;8:45 am]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Village of Ridgewood, New Jersey

On August 24, 1973, in 38 FR 22776, the Federal Insurance Administrator published a list of communities with Special Food Hazard Areas which included the Village of Ridgewood, New Jersey. Map No. H 340067 Panel 02 indicates that Lot 6, Block 2803, at 560 Knollwood Road, Ridgewood, New Jersey, as recorded in Book 5197, Page 240, in the office of the Clerk of Bergen County, N.J., is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 340067 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30485 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Township of Wayne, New Jersey

On June 25, 1976, in 41 FR 26412, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the Township of Wayne, New Jersey. Map No. H&I 345327, Panel 09 indicates that Lot 23, Block 383, located at 529 Newark-Pompton Turnpike, Wayne, New Jersey, as recorded in Book D 85, Page 310, in the office of the Register of Passaic County, New Jersey, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above mentioned property are within Zone C, and are not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H&I 345327, Panel 09 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on February 20, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-30486 Filed 10-15-76;8:45 am]

[Docket No. FI-315]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Clovis, New Mexico

On August 6, 1974, in 39 FR 28262, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Clovis, New Mexico. Map No. H 350010 05 indicates that Lots 9 through 14, and the westerly Park Area Lot, Block 6, Lots 4 through 9, Block 7, and Lots 1 through 4, Block 9, Unit No. 1, as recorded in Map Book C, Page 18; Lot 8, Block 6, Lots 5 through 13 and Lots 16 through 18, Block 9, and Lot 9, and Lots 11 through 14, Block 15, Unit No. 3, as recorded in Map Book D, Page 44; Lots 10 through 12, Block 14, Unit No. 4, as recorded in Map Book D, Page 64; and Lots 1 through 9, Block 14, and Lots 15 through 23, Block 15, Unit No. 6, as recorded in Map Book D, Page 73, in the office of the County Clerk of Curry County, New Mexico, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 8 and 9, Block 7, and Lots 2, 3, and 4, Block 9, Unit No. 1; Lots 5 through 13, Block 9, and Lot 9, and Lots 11 through 14, Block 15, Unit No. 3; Lots 10 through 12, Block 14, Unit No. 4; and Lots 1 through 9, Block 14, and Lots 15 through 23, Block 15, Unit No. 6, are not within the Special Flood Hazard Area. In addition, the structures on Lots 9 through 14, Block 6, Lots 4 through 7, Block 7, and Lot 1, Block 9, Unit No. 1; and Lot 8, Block 6, and Lots 16 through 18, Block 9, Unit No. 3, are not within the Special Flood Hazard Area. Accordingly, Map No. H 350010 05 is hereby corrected to reflect that the lots and srtuctures as specified above are not within the Special Flood Hazard Area identified on June 28, 1974.

Lots 1, 2, 3, 9, and the Park Area, Block 1, Lot 6, Block 5, Lots 1 through 6 and the westerly Park Area Lot, Block 6, and Lot 3, Block 7, Unit No. 1, as recorded in Map Book C, Page 18; Lots 1 through 4, Block 13, Unit No. 3, as recorded in Map Book D, Page 44; Lot 7, Block 6, and Lots 5, 6, and 9 through 14, Block 13, Unit No. 4, as recorded in Map Book D, Page 64; Lot 7, Block 5, and Lots 3 and 4, Block 12, Unit No. 7, as recorded in Map Book D, Page 74; Lots 5 through 11, Block 12, Lots 15 and 16, Block 13, Lot 6, Block 19 and Lots 1, 2, and 3, Block 20, Unit No. 8, as recorded in Map Book D, Page 80; and Lots 1, 2, 3, and 7, Block 10, Lots 7 and 8, Block 13, Lots 1 through 5 and Lots 36 through 38, Block 19, and Lots 4 through 19, Block 20, Unit No. 9, as recorded in Map Book E, Page 5, in the office of the County Clerk of Curry County, New Mexico, are partially within the Special Flood Hazard Area. However, the structures on Lots 8 and 9, Block 1, Lot 6, Block 5, and Lots 1 through 6, Block 6, Unit No. 1; Lots 1 through 4, Block 13, Unit No. 3; Lot 7, Block 6, and Lots 9, 12, and 13, Block 13, Unit No. 4; Lot 4, Block 12, Unit No. 7; and Lots 5, 6, 8, 10, and 11, Block 12, Unit No. 8, are not located within the Special Flood Hazard Area. Accordingly, Map No. H 350010 05 is hereby corrected to reflect conditions as specified above.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-30487 Filed 10-15-76;8:45 am]

[Docket No. FI-2135]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of New York, New York

On July 20, 1976, in 41 FR 29937, the Federal Insurance Administrator published a list of communities with special hazard areas which included New York, New York. Map No. H 360497A Panel 82 indicates that a parcel of land located at Seaview Avenue and Mason Avenue, Staten Island, New York, New York, as recorded in Liber 2149, Page 403, of Patent Letters, in the office of the clerk of Richmond County, New York, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 360497A Panel 82 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 11, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30488 Filed 10-15-76;8:45 am]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the County of Guilford, North Carolina

On January 24, 1975, in 40 FR 3777, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the County of Guilford, North Carolina. Map No. H 370111 Panel 16 indicates that Tracts 1 and 2 and the easement, on the north side of U.S. Highway No. 421, Friendship Township, Guilford County, North Carolina, as recorded in Book 2737, Pages 218 through 220, in the office of the Register of Deeds of Guilford County, North Carolina, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above may in light of additional, recently acquired flood information, that structures 1, 5 and 6, shown on a survey of the above property for Gold Crown, Inc., Friendship Township, Guilford County, North Carolina, made in October 1973, and revised on November 21, 1973, by Hugh Creed and Associates, Inc., are not within the Special Flood Hazard Area. Accordingly, Map No. H 370111 Panel 16 is hereby corrected to reflect that the above mentioned structures are not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30489 Filed 10-15-76;8:45 am]

[Docket No. FI-270]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grove City, Ohio

On May 17, 1974, in 39 FR 17523, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grove City, Ohio. Map No. H 390173A Panel 04 indicates that Lot 20, Section 2, Brook Park Subdivision, Grove City, Franklin County, Ohio, as recorded in Platbook 50, Page 4, in the office of the Recorder of Franklin County, Ohio, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 390173A Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30490 Filed 10-15-76;8:45 am]

[Docket No. FI-204]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Enid, Oklahoma

On February 25, 1974, in 39 FR 7174, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Enid, Oklahoma. Map No. H 400062 Panel 15 indicates that Lot 9, Block 1, Prairie Ridge, Eighth Addition, Enid, Oklahoma, as recorded in Book 8-270, Page 8-346, in the office of the County Clerk of Garfield County, Oklahoma, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 400062 Panel 15 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 22, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30491 Filed 10-15-76;8:45 am]

[Docket No. FI-250]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Township of Hampden, Pennsylvania

On April 25, 1974, in 39 FR 14608, the Federal Insurance Administrator published a list of communities with special hazard areas which included Hampden Township. Map No. H 420360 Panel 03 indicates that Lots 149 and 157 of Countryside Subdivision, Section A, Hampden Township, Cumberland County, Pennsylvania, as recorded in Planbook 25, Page 6 of Plat Records, in the office of the Recorder of Cumberland County, Pennsylvania, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structures on the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 420360 Panel 03 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on May 3, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30492 Filed 10-15-76;8:45 am]

[Docket No. FI-303]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the Township of Horsham, Pennsylvania

On July 5, 1974, in 39 FR 24644, the Federal Insurance Administrator published a list of communities with special hazard areas which included the Township of Horsham. Map No. H 420700 Panel 02 indicates that a parcel of land located at the southeast corner of Summer Avenue and Woodlawn Avenue as recorded in Deedbook 4034, Page 484 in the office of the Recorder of Montgomery County, Pennsylvania, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 420700 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 21, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30493 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Arlington, Texas

On June 25, 1976, in 41 FR 26416, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Arlington, Texas. Map No. H 485454A 06 indicates that Millbrook Addition No. 1, Arlington, Texas, as recorded in Plat Record Volume 388-34, Page 20 and 21 in the office of the Clerk of Tarrant County, Texas is partially within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lot 32, Block 4 of the above-mentioned property is within Zone B and not within the Special Flood Hazard Area. Lots 1–66, Block 1, Lots 1–10, Block 2, Lots 1–40, Block 3 and Lot 1, Block 4, with the exception of the portion within the 100 year flood limits as established by O. V. DiScullo, P.E. on April 19, 1976, and shown on the corrected plat for Millbrook Number One, are within Zone B, and not within the Special Flood Hazard Area.

The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 485454A 06 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 23, 1971.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 5, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30294 Filed 10-15-76;8:45 am]

[Docket No. FI-364]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Austin, Texas

On September 24, 1974, in 39 FR 34276, the Federal Insurance Administrator published a list of communities with special hazard areas which included Austin, Texas. Map No. H 480624 Panel 42 indicates that Lot 11, Block A, Horseshoe Bend Subdivision, being 2304 Forest Bend Drive, Austin, Texas, as recorded in Platbook 63, Page 34, in the office of the Clerk of the County Court of Travis County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 480624 Panel 42 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on September 13, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30495 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Grand Prairie, Texas

On June 25, 1976, in 41 FR 26416, the Federal Insurance Administrator published a list of communities with special hazard areas which included Grand Prairie, Texas. Map No. H 485472 Panels 17 and 19 indicate that two tracts of land being part of the proposed Trailwood Subdivision, Grand Prairie, Texas, as recorded in Volume 73022, Page 0640 and Volume 73023, Page 1451 of Deeds Records in the office of the Clerk of Dallas County, Texas, are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that:

a tract of the above property recorded in Volume 73022, Page 0640 is not within the Special Flood Hazard Area, but is within Zone C.

A portion of the tract recorded in Volume 73023, Page 1451 which can be described as follows:

Beginning at a point in the West R. O. W. line of Matthew Road (County Road No. 38), a 60.0 foot R. O. W., said Beginning Point being N 0°04'42" E, a distance of 4,259.67 feet from the intersecting point of the West R. O. W. line of said Matthew Road with the North R. O. W. line of Garden Road (County Road No. 123), a 60.0 foot R. O. W., said Beginning Point, being the N.E. corner of the Isaac Bodino to Earl N. Bodino tract described in a Deed recorded in Volume 240, page 233, Deed Records of Dallas County, Texas, and being the S.E. corner of the Bessie Gibbons 169.0 acre tract; thence West along the North line of said Isaac Bodino to Earl N. Bodino tract and along the South line of the Bessie Gibbons tract, a distance of 2,211.74 feet to the N.W. corner of said Bodino tract and to the S.W. corner of said Gibbons tract, being point for corner; thence N 0°07'40" W along the most Westerly line of said Bessie Gibbons tract, a distance of 1,623.49 feet to the most Southerly North line of said S. T. Brown Survey and to the South line of the S. H. Beeman Survey, Abstract No. 1032, Dallas County, Texas, and also to the South line of the Maggie Martin to M. R. Martin 85.0 acre tract in Dallas County, Texas, as described in Deed dated April 12, 1946, recorded in Volume 2033, page 373, Deed Records of Dallas County, Texas, being point for corner; thence East along the said North Line of S. T. Brown Survey and along the South line of the S. H. Beeman Survey and the South line of the said M. R. Martin 85.0 acre tract, a distance of 1,262.0 feet to the S.E. corner of said S. H. Beeman Survey and the S.E. corner of said Martin tract, and to an in-corner of said S. T. Brown Survey, being point for corner; thence N 0°05'30" E along the East line of said S. H. Beeman Survey and the East line of said Martin tract, and along the Easterly West line of said S. T. Brown Survey, a distance of 926.10 feet to point being the out-corner and intersecting point of a West R. O. W. line of Matthew Road with a South R. O. W. line of Matthew Road, being point for corner; thence South 89°46'54" East, approximately 200 feet to a point; thence South 00°07'18" West, approximately 60 feet to a point; thence South 89°46'54" East, approximately 610 feet to a point; thence North 00°07'18" East, approximately 60 feet to a point; thence South 89°46'54" East, approximately 245 feet to a point; thence South 00°11'33" West, 2,537.17 feet along the West Right-of-Way of Matthew Road to the Point of Beginning,

is within Zone C and not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H 485472 Panels 17 and 19 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on July 6, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30496 Filed 10-15-76;8:45 am]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Houston, Texas

On January 10, 1975, in 40 FR 2190, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Houston, Texas. Map No. H 480296 Panel 45 indicates that Hickory Hollow Subdivision, Houston, Harris County, Texas, as recorded in Volume 212, Page 130, in the office of the Clerk of the Court of Harris County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above prop-

erty is not within the Special Flood Hazard Area. Accordingly, Map No. H 480296 Panel 45 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30497 Filed 10-15-76;8:45 am]

[Docket No. FI-936]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Live Oak, Texas

On March 29, 1976, in 41 FR 12892, the Federal Insurance Administrator published a list of communities with special hazard areas which included Live Oak, Texas. Map No. H 480043A 03 indicates that Units 11 and 14 of Live Oak Village, Live Oak, Bexar County, Texas as recorded in Book Volume 6500, Page 124 and Book Volume 6800, Page 41 of Deeds and Plats, in the office of the Clerk of Bexar County, Texas are in their entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that Lots 14 through 19, Block 41, Unit 11 of the above property are not within the Special Flood Hazard Area. Accordingly, Map No. H 480043A 03 is hereby amended to include Unit 14 within the Corporate Limits of the City of Live Oak, Texas and to reflect that the above property is not within the Special Flood Hazard Area identified on March 12, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 30, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30498 Filed 10-15-76;8:45 am]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Missouri City, Texas

On January 24, 1975, in 40 FR 3781, the Federal Insurance Administrator published a list of communities with special hazard areas which included Missouri City, Texas. Map No. H 480483 Panels 02 & 05 indicate that Quail Valley Subdivision, Thunderbird Section 2, Missouri City, Texas, as recorded in Volume 16, Page 2 of Map Records in the office of the Clerk of the County Court of Fort Bend County, Texas, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that:

Lots 1–5, Block 1, Lots 1–11, 14–25, 27–36, 41–54 and Lots 59–103, Block 2, Lots 3–9 and 12–38, Block 3, Lots 1–37, Block 4, and Lots 2–23, 25–28 and Lots 33–38, Block 5, Lots 1–17, block 6, Lots 1–18, Block 7, Lots 1–67, Block 8, Lots 1–7, Block 9 and portions of Reserve C and Reserve D of the above-mentioned property which are at or above elevation 69.0 feet MSL, USC & GS 1943 Datum, as shown on the recorded plat map cited above, are not within the Special Flood Hazard Area. Accordingly, Map No. H 480483 Panels 02 & 05 are hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on February 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30499 Filed 10-15-76;8:45 am]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Missouri City, Texas

On January 24, 1975, in 40 FR 3781, the Federal Insurance Administrator published a list of communities with special hazard areas which included Missouri City, Texas.

It has been determined by the Federal Insurance Administration that Reserves A, B, and C, Oak Valley Subdivision, Missouri City, Fort Bend County, Texas, recorded as Document No. 280721, in the office of the clerk of Fort Bend County, Texas, are within the corporate limits of the City of Missouri City, Texas.

It has also been determined that Reserves A and B and the north 510 feet of Reserve C of the above mentioned property, are not within the Special Flood Hazard Area.

Accordingly, Map No. H 480304 is hereby corrected to reflect that the above property is within the corporate limits of Missouri City, Texas, and not within the Special Flood Hazard Area identified on February 15, 1974.

(National Flood Insurance Act of 1968, (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30500 Filed 10-15-76;8:45 am]

[Docket No. FI-880]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Chesapeake, Virginia

On February 13, 1976, in 41 FR 6738, the Federal Insurance Administrator published a list of communities with special hazard areas which included the City of Chesapeake, Virginia. Map No. H 510034A Panel 11 indicates that Lot 26, Subdivision of Meadow Creek Estates, being 605 Stubbs Court, Chesapeake, Virginia, as recorded in Deedbook 1724, Page 697, in the office of the Clerk of the Circuit Court of Chesapeake, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. Accordingly, Map No. H 510034A Panel 11 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on June 18, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30501 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Alexandria, Virginia

On June 25, 1976, in 41 FR 26418, the Federal Insurance Administrator published a list of communities with special hazard areas which included Alexandria, Virginia. Map No. H & I 515519 Panel 04 indicates that 3926 Vermont Avenue being Lot 16, Block 3, Section 3, Cameron Homes, Alexandria, Virginia, as recorded in Deedbook 829, Page 134, in the office of the Clerk of the Circuit Court of Alexandria, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above property is not within the Special Flood Hazard Area,

but is within Zone C. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 515519 Panel 04 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 2, 1970.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 23, 1976.

HOWARD B. CLARK,
Acting Federal Insurance Administrator.

[FR Doc.76-30502 Filed 10-15-76;8:45 am]

[Docket No. FI-2134]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Virginia

On June 25, 1976, in 41 FR 26418, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fairfax County, Virginia. Map No. H & I 515525C Panel 13 indicates that Lot 41, Block I, Section 2 of Merrifield View Subdivision being 2809 Lafiora Court, Fairfax County, Virginia, as recorded in Deedbook 3525, Page 611 in the office of the Clerk of the Circuit Court of Fairfax County, Virginia, is in its entirety within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of the additional, recently acquired flood information, that the structure on the above property is not within the Special Flood Hazard Area, but is within Zone C. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 515525C Panel 13 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on May 14, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 8, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30503 Filed 10-15-76;8:45 am]

[Docket No. FI-2131]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Fairfax County, Virginia

On June 25, 1976, in 41 FR 26418, the Federal Insurance Administrator published a list of communities with special hazard areas which included Fairfax County, Virginia. Map No. H & I 515525C Panel 13 indicates that Lot 43, Section 3, Town and Country Gardens, being 2423 Riviera Drive, Fairfax County, Virgina, as recorded in Book 2720, Page 398 of Plats, in the office of the Clerk of the Circuit Court of Fairfax County, Virginia, is in its entirely within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the existing structure on the above property is not within the Special Flood Hazard Area. The map amendment is not based on the placement of fill on the above named property after the effective date of the Flood Insurance Rate Map of the community. Accordingly, Map No. H & I 515525C Panel 13 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on May 7, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30504 Filed 10-15-76;8:45 am]

[Docket No. FI-310]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for the City of Muskego, Wisconsin

On July 12, 1974, in 39 FR 25652, the Federal Insurance Administrator published a list of communities with Special Flood Hazard Areas which included the City of Muskego, Wisconsin. Map No. H 550486 Panel 01 indicates that Lot 11, Block C, Hi—"Y"—Ranches, Muskego, Wisconsin, as recorded in Folder P, Volume 23 of Plats, Page 34, in the office of the Register of Waukesha County, Wisconsin, is in its entirely within the Special Flood Hazard Area. It has been determined by the Federal Insurance Administration, after further technical review of the above map in light of additional, recently acquired flood information, that the above mentioned property is not within the Special Flood Hazard Area. Accordingly, Map No. H 550486 Panel 01 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on June 21, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended, 42 U.S.C. 4001–4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 28, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-30505 Filed 10-15-76;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

[CGD 73-272]

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

First Aid Certificates

On December 1, 1975, there was published in the FEDERAL REGISTER (40 FR 55663), a supplemental notice of proposed rulemaking to amend the regulations for merchant marine officers licensing to provide for the acceptance of a First Aid Certificate other than one issued by the United States Public Health Service.

There was also a proposal to require an applicant for a license as a deck, engineering, or radio officer to present a completion certificate from either the American National Red Cross or the American Heart Association Cardiopulmonary Resuscitation Basic Life support course.

Fifteen comments on the proposal were received. The majority of the commenters expressed approval of the proposal. Those who objected to the proposal felt that the proposed requirements should not be applied to their particular interest groups. The Coast Guard feels that the requirements are valid for all licensees regardless of where the licensee is employed, including the off-shore mineral and oil industry. The required courses are open to all desiring to take them.

Several commenters suggested changes in the wording of the requirements for a cardiopulmonary resuscitation course. The Coast Guard concurs with the substance of these suggestions, and has changed the proposal to require a certificate of completion of a cardiopulmonary resuscitation course from the American National Red Cross or the American Heart Association rather than

listing a specific course which must be taken.

No other changes to the proposal have been made.

Accordingly, with this change, the proposed amendment is adopted as set forth below.

Effective date. This amendment is effective on November 19, 1976.

Dated: October 12, 1976.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

Part 10 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By revising § 10.02–5(f) to read:

§ 10.02–5 Requirements for original license.

* * * * *

(f) *First Aid Certificate.* No candidate for original license shall be examined until—

(1) He presents a currently valid certificate of completion of a cardiopulmonary resuscitation course from—

(i) The American National Red Cross; or

(ii) The American Heart Association; and

(2) He presents a certificate from—

(i) The United States Public Health Service indicating that he has passed an examination based on the contents of "The Ship's Medicine Chest and First Aid at Sea", or another manual arranged for and approved by the Public Health Service; or

(ii) The American National Red Cross indicating completion of its "Standard First Aid and Personal Safety" course.

* * * * *

2. By revising § 10.13–13(a) to read:

§ 10.13–13 General requirements for original licenses.

(a) *First Aid Certificate.* No candidate for original license shall be qualified until—

(1) He presents a currently valid certificate of completion of a cardiopulmonary resuscitation course from—

(i) The American National Red Cross; or

(ii) The American Heart Association; and

(2) He presents a certificate from—

(i) The United States Public Health Service indicating that he has passed an examination based on the contents of "The Ship's Medicine Chest and First Aid at Sea", or another manual arranged for and approved by the Public Health Service; or

(ii) The American National Red Cross indicating completion of its "Standard First Aid and Personal Safety" course.

* * * * *

3. By revising § 10.16–31(b) to read:

§ 10.16–31 Knowledge requirements.

* * * * *

(b) * * *

(1) Hold—

(i) A currently valid certificate of completion of a cardiopulmonary resuscitation course from—

(A) The American National Red Cross; or

(B) The American Heart Association; and

(ii) A currently valid—

(A) First-aid certificate issued by the United States Public Health Service; or

(B) Certificate of completion of the American National Red Cross course: "Standard First Aid and Personal Safety".

* * * * *

(Sec. 1, 86 Stat. 423, as amended (46 U.S.C. 405), 60 Stat. 1097 (46 U.S.C. 224, 224a, 229).)

[FR Doc.76–30433 Filed 10–15–76;8:45 am]

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 609—TRANSPORTATION FOR ELDERLY AND HANDICAPPED PERSONS

Completion of Transit Bus Requirements

On April 30, 1976 the Urban Mass Transportation Administration (UMTA) published final regulations on transportation for elderly and handicapped persons in the FEDERAL REGISTER (41 FR 18234). The general regulations (49 CFR Part 609) contained two paragraphs on buses (§§ 609.15(b) and 609.15(c)) in which the effective date was reserved for later completion. The purpose of this document is to complete and clarify the coverage of those paragraphs and to add a floor height requirement.

On May 5, 1976 the Administrator of UMTA held a day-long public hearing, announced in the FEDERAL REGISTER on April 14, 1976, on the issues covered by this document as well as other related issues. UMTA's decisions on those issues were announced on July 27, 1976 and published in the FEDERAL REGISTER on August 2, 1976 (41 FR 32286). The latter document presents the full background and rationale for those decisions and for this issuance, and is incorporated by reference into this preamble.

The requirements being issued by this document apply only to new, standard, full-size urban transit buses to be used principally in normal local transit service. Such buses are customarily 35- to 40-foot buses with seats for 43 to 51 passengers. Any requirements concerning wheelchair accessibility, floor height, or step height for other buses will be handled on a case-by-case basis as part of the project approval process.

Accordingly, 49 CFR Part 609 is amended by revising § 609.15(a), (b), and (c) to read as set forth below.

Effective date. This revision is effective upon issuance.

Issued in Washington, D.C. on October 12, 1976.

ROBERT E. PATRICELLI,
Urban Mass Transportation
Administrator.

49 CFR 609.15(a), (b), and (c) are revised to read as follows:

§ 609.15 Buses.

(a) Paragraphs (b) and (c) of this section apply only to new standard, full-size urban transit buses to be used principally in normal local transit service for which an UMTA grantee issues, after February 15, 1976, a procurement solicitation containing vehicle specifications approved by UMTA. The remaining paragraphs of this section apply to the above vehicles as well as all new transit buses with a length exceeding 22 feet for which an UMTA grantee issues, on or after May 31, 1976, a procurement solicitation containing vehicle specifications approved by UMTA. Any requirements concerning wheelchair accessibility, floor height, or step height for buses covered by paragraphs (c) through (g) but not (b) and (c) of this section will be handled on a case-by-case basis as part of the project approval process.

(b) Wheelchair accessibility option: To the extent specified by paragraph (a) of this section, procurement solicitations shall provide for a bus design which permits the addition of a wheelchair accessibility option and shall require an assurance from each bidder that it offers a wheelchair accessibility option for its buses. The term "wheelchair accessibility option" means a level change mechanism (e.g., lift or ramp), sufficient clearances to permit a wheelchair user to reach a securement location, and at least one wheelchair securement device.

(c) Floor height and steps: To the extent specified by paragraph (a) of this section, procurement solicitations shall provide for a design which meets the following requirements:

(1) The floor height at the front door after the vehicle stops shall not exceed 24 inches (a kneeling feature may be used to reduce the floor height to the required level).

(2) The vertical distance from a standard 6-inch curb to the first front door step shall not exceed 8 inches (a kneeling feature may *not* be used to meet this requirement).

(3) The riser height for each front door step after the first step up from the curb or street level shall not exceed 8 inches.

(4) The tread depth of steps at both front and rear doors shall be no less than 12 inches.

[FR Doc.76–30421 Filed 10–15–76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. No. 1156, Amdt. 7]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of October 1976.

Upon further consideration of Revised Service Order No. 1156 (38 FR 29220, 35002; 39 FR 7792, 24510, 35573; 40 FR 2990, 29363, 48930; and 41 FR 15848), and good cause appearing therefor:

It is ordered, that: § 1033.1156 Revised Service Order No. 1156, Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Missouri Pacific Railroad Company and over tracks of Union Pacific Railroad Company be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., November 15, 1976, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 15, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4) and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), 17(2)).)

It is further ordered, that a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30441 Filed 10-15-76;8:45 am]

[S. O. No. 1188, Amdt. 5]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 8th day of October 1976.

Upon further consideration of Service Order No. 1188 (39 FR 24016; 40 FR 2990, 30267; 41 FR 2644, and 29387), and good cause appearing therefor:

It is ordered, That: § 1033.1188 Service Order No. 1188, (Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Chicago and North Western Transportation Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., October 15, 1976.

(Secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2) 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), and 17(2)).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER:

By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30442 Filed 10-15-76;8:45 am]

[No. MC-C-6748]

PART 1061—LIMITATION OF SMOKING ON INTERSTATE PASSENGER CARRIER VEHICLES

Smoking by Passengers and Operating Personnel on Interstate Buses; Petition for Modification

At a general session the Interstate Commerce Commission, held at its office in Washington, D.C., on the 20th day of September 1976.

It appearing, That by petition filed July 25, 1975, National Association of Motor Bus Owners sought modification of the regulations set forth in § 1061.1(a) of Title 49 of the Code of Federal Regulations;

It further appearing, That notice of the filing of the petition was published in the FEDERAL REGISTER of August 18, 1975 (40 FR 34652), and provision was made for the filing of representations by any person or persons supporting or opposing the relief sought;

And it further appearing, That written statements of views and comments respecting the alternative proposal were filed by the parties, including petitioner; that those statements have been analyzed in the report made and filed herein by the Commission; and that the said report contains the Commission's findings of fact and conclusions thereon, which report is hereby referred to and made a part hereof:

It is ordered, That Chapter X of Title 49 of the Code of Federal Regulations, § 1061.1, paragraph (a), be, and it is hereby, amended by deleting the number "20" where it appears therein and inserting the number "30" therefor.

It is further ordered, That the petition, except to the extent granted herein, be, and it is hereby, denied.

It is further ordered, That this order shall become effective on November 22, 1976, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

And it is further ordered. That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy of the attached notice with the Director, Office of the Federal Register (49 U.S.C. 301, 302, 304, and 308, 5 U.S.C. 553 and 559).

By the Commission.

SMOKING BY PASSENGERS AND OPERATING PERSONNEL ON INTERSTATE BUSES

PETITION FOR MODIFICATION

• *Purpose.* The purpose of this document is to notify the public that the Interstate Commerce Commission is modifying its regulation (49 CFR 1061.1(a)) in order to enlarge the separate seating section for smoking on passenger-carrying motor vehicles in interstate or foreign commerce, where smoking is otherwise permitted by the carrier and by law. •

By petition filed July 25, 1975, National Association of Motor Bus Owners (hereinafter, "Petitioner" or "NAMBO") requested that part (a) of the adopted regulations be modified to permit the enlargement of the defined smoking section on passenger-carrying buses from 20 percent to 50 percent of available seating capacity. By notice filed in the FEDERAL REGISTER of August 18, 1975, the Commission invited interested persons to submit written comments, data, or arguments on this matter on or before October 1, 1975. Based upon an analysis of the representations filed by NAMBO, Action on Smoking and Health (ASH), and numerous individuals, the Commission has modified the involved regulation as set forth below. The modified regulation enlarges the smoking section of passenger-carrying buses from 20 percent to 30 percent of available seating capacity. Generally, the evidence (consisting in part of a standardized survey of passengers at randomly selected bus terminals representatively located in 29 States and the District of Columbia) showed that an average of about 30 percent of bus passengers intended to smoke on the buses. The Commission further concluded that enlarging the smoking section to 30 percent should reasonably accommodate the desires of smoking passengers without exposing other riders to excessive tobacco smoke fumes.

This notice of rulemaking is issued under the authority of sections 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559) and sections 202, 203, 204, 207, and 209 of the Interstate Commerce Act (49 U.S.C. 302, 303, 304, 307, and 309).

Accordingly, 49 CFR 1061.1(a) is hereby modified by deleting the number "20" where it appears therein and inserting the number "30" therefor.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30443 Filed 10-15-76;8:45 am]

proposed rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 912]

[Docket No. AO 333-A5]

GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Decision on Proposed Further Amendment of the Marketing Agreement and Order

A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), (hereinafter referred to collectively as the "order") regulating the handling of grapefruit grown in the Indian River District in Florida. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Vero Beach, Florida, on June 24, 1976, pursuant to notice thereof issued on June 1 and 16, 1976.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, on August 23, 1976 (41 FR 36212), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. Four exceptions were filed on behalf of certain interested persons.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

Material issues. The material issues of record are as follows:

(1) Substitute a definition of "standard packed carton" for the definition of "standard packed box", and revise the sections on assessments and overshipments to conform therewith;

(2) Revise committee quorum and voting procedures with respect to recommending weekly regulation;

(3) Provide authority for reapportionment of grower member and handler member representation on the committee; and

(4) Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

1. The order currently defines "standard packed box" to mean a unit of measure equivalent to one and three-fifths (1⅗) United States bushels of grapefruit. That term was included in the order to provide a convenient unit upon which to base assessments and to compute allotments. Since the standard packed box is no longer used for packaging Indian River grapefruit, the definition of such term should be deleted from the order. A definition of "carton or standard packed carton" should be included in the order. Carton or standard packed carton should be defined to mean a unit of measure equivalent to four-fifths (⅘) of a bushel of grapefruit.

For a number of years the principal container used for shipping fresh grapefruit was a wood box with a capacity of 1⅗ bushels. This container was referred to as a "standard packed box." The wood box now has been replaced by a corrugated paperboard carton with a capacity of four-fifths of a bushel of grapefruit.

The Fruit and Vegetable Inspection Division of the Florida Department of Agriculture at Winter Haven, which compiles much of the data used by the committee has converted all of its fresh citrus records to a four-fifths bushel carton basis. In addition, the Florida Department of Citrus eliminated the 1⅗ bushel box as an approved container, and under the Department of Citrus rules, Chapter 20-39.02, the standard container for shipping fresh citrus is of four-fifths bushel capacity.

The record indicates that during the 1974-75 season, 94 percent of Indian River fresh grapefruit shipments were in four-fifths bushel corrugated containers, with the balance shipped in bulk, bags, and two-fifths bushel cartons. Thus, it is important that the definition of "standard packed box" be replaced by a definition of "carton or standard packed carton" to recognize current industry usage of a four-fifths bushel carton.

Likewise, §§ 912.41 Assessments and 912.50 Overshipments should be amended so that such sections relate to the definition of "carton or standard packed carton." Accordingly, the order should be amended as hereinafter set forth.

2. The order should be amended, as hereinafter, set forth, to revise § 912.32 Procedure of committee to provide that for any decision or recommendation for regulations to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, nine members shall constitute a quorum and nine concurring votes shall be required. The amendment should continue the present requirement that eight members shall constitute a quorum and eight concurring votes shall apply to recommendations to amend an existing regulation. Currently, the order requires that for any recommendation for regulation to be effective for any week prior to the first full week in January and during and after the first full week in May, twelve members shall constitute a quorum and twelve concurring votes shall be required.

The order provided that eight members shall be present and eight agree in any recommendation for regulation during the period beginning with the first full calendar week in January and ending with, but not including the first full calendar week in May. It is during the January through April period that the bulk of fresh Indian River grapefruit is shipped. The order should be amended to require that nine members shall be present and nine agree in any recommendation for regulation, except for a week following three or more weeks of continuous regulation, in order to provide uniform quorum and voting requirements, for such recommendations, throughout the entire season. Committee membership includes six grower members and six handler members, and the record indicates that increasing the quorum and vote requirements by one member for recommendations for regulation during the January through April period would not cause any problems. There was no testimony in opposition to the increase in quorum and vote requirements for a recommendation for regulation during such period. Hence, the amendment is appropriate and it is recommended that it be adopted.

When the marketing order was first made effective in 1962, the industry consensus was that conditions calling for regulations, except in the period beginning with the first full calendar week in January and ending with, but not including the first full week in May, would occur only infrequently. It was believed appropriate to adopt a stringent voting requirement to assure that the committee would be fully convinced that regulation was necessary before a recommendation for such was made. Hence, the order provided that all 12 members shall be present and all 12 agree in any recommendation for a regulation, except in the specified period.

Conditions have changed in the industry. Acreage has increased from 23,000 in the 1961-62 season to 52,500 in 1974-75. Production of white and pink seedless grapefruit in that period increased from 9.1 million 1⅗ bushel boxes to 18.9 million. Many increased planting are located south of the area where the industry was located when the order was put into effect. These plantings consist of young vigorous trees located in areas less subject to cold damage. The trees tend to bloom and to mature fruit earlier in the season. Thus, a heavy volume of fruit now is available for shipment early in the season. Moreover, packinghouse and facilities for conditioning fruit for shipment have increased. Hence, there is

pressure on handlers to ship heavier volumes of fruit, facilities are available, and the potential for excessive shipments and oversupplied markets in the early part of the season prior to January is substantially greater now than it was when the order was initiated. The evidence indicates that the provision which requires a full committee for a quorum and unanimous vote by all members to recommend a regulation in the May to January period is no longer appropriate. This provision has prevented the committee from taking action to recommend regulations; although such action was favored by as many as eleven members. Hence, it is concluded that the provision is not in the best interests of the order and its objectives.

The order, in § 912.46, sets forth the factors to be considered by the committee in arriving at a decision as to whether or not to recommend that a regulation be issued by the Secretary. The committee should be in a position to consider such factors and to make such recommendation, if it determines that such is in the best interest of the industry.

The proposal submitted by the committee and carried in the notice of hearing which would provide that nine members shall constitute a quorum and not less than nine concurring votes shall be required to recommend a regulation to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, appears to be reasonable and appropriate in the circumstances. Therefore, it is concluded that the order should be amended to so provide, as hereinafter set forth.

Exception was taken to the revision of § 912.32 which provides that for any decision or recommendation for regulations to be effective during any calendar week, except for a week following three or more weeks of continuous regulation, nine members of the committee shall constitute a quorum and nine votes shall be required. The exceptions maintain that the current provision, which requires that any recommendation for regulation to be effective prior to the first full week in January and during and after the first full week in May, twelve members shall constitute a quorum and twelve concurring votes shall be required, should be retained. Basically, the exceptions restated the position of those opposed to regulation in the specified period and their objection to any change, which could facilitate a recommendation for regulation during such period. The evidence of record indicates that there have been changes in the industry, which may make regulation desirable during the period. Hence, the committee should be in a position, after consideration of the factors set forth in § 912.46 of the order, to make a recommendation for consideration by the Secretary, if it is determined that such action would be appropriate. The exception is, therefore, denied.

3. The order should be amended, as hereinafter set forth, to revise § 912.25 Selection of handler members of the Indian River Grapefruit Committee to provide for reallocation of the six handler member positions between handlers affiliated with cooperative marketing organizations, hereinafter referred to as "cooperative" members, and handlers not so affiliated, hereinafter referred to as "independent" members, upon the basis of the relative amounts of grapefruit handled during the three most recent completed seasons.

Handler membership currently is divided equally between the two groups with each being allocated three members. It has been customary to consider volume of shipments in the allocation of handler members of marketing order committees among handlers. The current allocation of members was made at the time the order was promulgated in 1962 when, according to the record, cooperative handlers accounted for 45 percent of the volume of shipments and independent handlers for 55 percent. The record indicates independent handlers have increased their proportion of the volume shipped. Hence, the current allocation is not representative of the volume of shipments. The proposition that the order should be modified to provide for reallocation between cooperative and independent handlers was supported by all witnesses, and it was generally agreed that after the initial reallocation further adjustments should be considered at three year intervals to maintain a balance based upon relative volume of shipments. However, there was disagreement as to when the initial reallocation should be made. One view was that it should be made immediately after the amendment is made effective. The other was that it should apply to the committee which would be selected for the 1977–78 term, as nominations had already been submitted for the 1976–77 term. The term of office of the committee begins August 1 of one year and ends July 31 of the following year. While it would be less disruptive of committee operations to delay reallocation until nominations are made for the term beginning August 1, 1977, it is concluded that it is appropriate to provide for the initial reallocation to be made effective at the same time as the amended voting requirements. This will require renomination of handler nominees to effect changes in composition of the handler membership of the committee, as appointments of committee members will have been made for the 1976–77 term by the effective date of the amendment, if the order is amended. However, the production area is comparatively small and nomination meetings of handlers could be held with little difficulty. Such meetings should be held and new appointments made between the time the amended order is issued and the time it becomes effective. Such meetings would be held in accordance with §§ 912.24 and 912.120, except that the times and dates specified therein shall not apply.

Prior to nomination meetings for the initial reallocation, and before the nomination meetings each third year thereafter, the committee should review Indian River grapefruit shipments by cooperative handlers and independent handlers for each of the three most recently completed seasons. For the initial reallocation, this would include shipments for the 1973–74, 1974–75, and 1975–76 seasons. In arriving at the proportional volume of shipments both interstate and export shipments would be tabulated for all cooperative handlers, including handlers affiliated with a cooperative central selling agency, and for all independent handlers. The annual percentages shipped would be calculated for all independent handlers as a group and for all cooperative handlers as a group for each of the three most recently completed seasons. Next a simple average of these percentages would be calculated. By this method, each season would be weighted equally by averaging the percentages handled by each group. This would avoid giving undue weight to seasons when shipments were unusually large.

After the Indian River Grapefruit Committee has compiled the average percentages handled by cooperative and independent handlers for each of the three seasons, it should make its recommendation for allocating handler member positions to the Secretary. It is concluded from the record, however, that regardless of the percentages handled by cooperative or independent handlers that each such group of handlers shall be allocated not less than one handler membership on the committee.

The following percentages of grapefruit shipments were suggested as a basis for allocating handler members and should apply in the initial reallocation. However, the percentages so indicated should not be considered as inflexible for future reallocations as experience may disclose a need for modification by the committee, with the approval of the Secretary, to meet changing circumstances:

Percentages of grapefruit shipped previous 3-year-period		Allocation of handler members	
Cooperatives	Independents	Cooperatives	Independents
Under 25	75 and above	1	5
25 through 41.99	58 through 74.99	2	4
42 through 57.99	42 through 57.99	3	3
58 through 74.99	25 through 41.99	4	2
75 and above	Under 25	5	1

Witnesses representing independents supported the proposal that grower membership should be allocated on the basis of the relative volumes of grapefruit shipped by the two handler groups. However, this was opposed by other witnesses, including committee witnesses, who maintained that allocation of grower representation should recognize the relative numbers of growers shipping

through the two types of handlers, and that using shipments of handler groups to determine grower member composition would be inequitable, in that it would tend to give an undue advantage to the larger volume growers. Currently, provisions of the order allocate three grower members to the growers that ship through independent handlers and three members to the growers who ship through cooperatives. Testimony was presented that although the volume of shipments of independent handlers is larger than that of cooperative handlers, the number of growers is more nearly equal as growers who ship through the independent handlers tend to be the larger volume growers. A review of the record does not disclose a preponderence of evidence supporting either position. Therefore, it is concluded that no change should be made in the current allocation of grower membership as between independent and cooperative growers.

Exception also was taken to the failure of the recommended decision to provide for reallocation of grower membership on the basis of the relative volumes of grapefruit shipped by independent and cooperative handlers. A further review of the record evidence, in conjunction with the comments in the exceptions, leads to the conclusion that no change is appropriate.

4. A proposal in the notice of hearing was that consideration should be given to making such other changes in the order as may be necessary to make the entire order conform to any amendments that may result from this proceeding. This proposal was supported at the hearing without opposition. However, no conforming changes other than those heretofore mentioned are necessary.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed July 23, 1976, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth herein. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of grapefruit grown in the Indian River District in Florida in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of grapefruit grown in the Indian River District in Florida which make necessary different terms and provisions applicable to different parts of such area; and

(6) All handling of grapefruit grown in the Indian River District, as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions to the recommended decision was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida", and "Order Amending the Order, as Amended, Regulating the Handling of Grapefruit Grown in the Indian River District in Florida", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with this decision.

Referendum order. It is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the annexed order as amended and as hereby proposed to be amended, regulating the handling of grapefruit grown in the Indian River District in Florida is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production area in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be August 1, 1975, through July 31, 1976.

The agents of the Secretary to conduct such referendum, jointly or severally, are hereby designated to be William C. Knope and John R. Toth, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, PO Box 9, Lakeland, Florida 33802.

Signed at Washington, D.C., on October 8, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

Order[1] amending the order, as amended, regulating the handling of Grapefruit Grown in the Indian River District in Florida

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon proposed amendment of the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of grapefruit grown in the production area in the same manner as, and

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

is applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of grapefruit grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of grapefruit grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof the handling of grapefruit grown in the production area shall be in conformity to and in compliance with the terms and conditions of the order, as hereby amended, as follows:

The provisions of the proposed marketing agreement and order, amending the order, contained in the recommended decision issued by the Deputy Administrator on August 23, 1976, and published in the FEDERAL REGISTER on August 27, 1976 (41 FR 36212), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following revision:

The first two sentences of § 912.32(b) are changed.

1. (a) Section 912.3 is revised to read as follows:

§ 912.3 Carton or standard packed carton.

"Carton or standard packed carton" means a unit of measure equivalent to four-fifths (⅘) of a United States bushel of grapefruit, whether in bulk or in any container.

(b) Paragraph (a) of § 912.41 is revised to read as follows:

§ 912.41 Assessments.

(a) Each handler who first handles fruit shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by such committee for its maintenance and functioning during each fiscal period. Each such handler's share of such expenses shall be that proportion thereof which the total quantity of fruit shipped by such handler as the first handler thereof during the applicable fiscal period is of the total quantity of fruit so shipped by all handlers during the same fiscal period. The Secretary shall fix the rate of assessment per standard packed carton of fruit to be paid by each such handler. The payment of assessments for the maintenance and functioning of the committee may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

* * * * *

(c) Section 912.50 is revised to read as follows:

§ 912.50 Overshipments.

During any week for which the Secretary has fixed the total quantity of grapefruit which may be handled, any person who has received an allotment may handle, in addition to the total allotment available to him, an amount of grapefruit equivalent to 10 percent of such total allotment or 1,000 cartons, whichever is greater: *Provided,* That the Secretary, on the basis of a recommendation of the committee or other available information, may set such amount at any figure not less than 1,000 cartons and not more than 2,000 cartons. Handlers may overship (a) during such week the entire 1,000 cartons or other amount not in excess of 2,000 cartons as may be set by the Secretary, or (b) during two or more consecutive weekly periods when regulations are in effect, any portion of such 1,000 cartons or any other amount set by the Secretary until the accumulated overshipments reach the applicable maximum number of cartons permitted to be overshipped. The quantity of grapefruit so overshipped when regulations are in effect shall be deducted from such person's allotment for the week following the one in which the total permitted overshipment is reached or for the week in which such person makes no shipments of grapefruit. If such person's allotment for such week is an amount less than the excess shipments permitted under this section, the remaining quantity shall be deducted from succeeding weekly allotments issued to such person until such excess has been entirely offset: *Provided,* That any time there is no volume regulation in effect it shall be deemed to cancel all requirements to undership allotment because of previous overshipments pursuant to this part.

2. Paragraph (b) of § 912.32 is revised to read as follows:

§ 912.32 Procedure of committee.

* * * * *

(b) For any decision or recommendation with respect to regulations to be effective during any calendar week, nine members shall constitute a quorum and nine concurring votes shall be required: *Provided,* That the quorum necessary to make a recommendation for regulation for any week immediately following three or more continuous weeks of regulation shall be twelve members and twelve concurring votes shall be required. The requirements of this paragraph shall not apply to recommendations to amend an existing regulation.

* * * * *

3. Section 912.24 is amended as follows:

(1) Redesignate paragraph (b) as paragraph (c) and insert a new paragraph (b) as follows:

§ 912.24 Nomination of handler members for the Indian River Grapefruit Committee.

(a) * * *

(b) The committee, as soon as practicable after issuance of the amendment to this part and every third year thereafter, not later than the date prescribed in paragraph (a) of this section, shall reallocate the six handler member and six handler alternate member positions for which voting for nominees is to take place. At such meetings, voting for nominees shall be in accordance with representation which may be required as a result of any reallocation. The reallocation of committee member and alternate member positions shall be between handlers affiliated with bona fide cooperative fresh fruit marketing organizations, herein referred to as "cooperative" handlers, and handlers not so affiliated, herein referred to as "independent" handlers, on the basis of the relative amounts of grapefruit shipped by each group during each of the three immediately preceding completed crop years. The committee shall make its recommendation for allocating handler member positions to the Secretary. The following percentages of grapefruit shipments shall be used by the committee as a basis for allocating handler member and alternate member representation: *Provided,* That the committee, with the approval of the Secretary, may modify the percentages and/or allocation, whenever necessary to meet changing circumstances: *Provided,* That in no event shall any group be allocated less than one member.

Percentage of grapefruit shipped previous 3-year-period		Allocation of handler members	
Cooperatives	Independents	Cooperatives	Independents
Under 25	75 and above	1	5
25 through 41.99	58 through 74.99	2	4
42 through 57.99	42 through 57.99	3	3
58 through 74.99	25 through 41.99	4	2
75 and above	Under 25	5	1

* * * * *

(2) Section 912.25 is amended to read as follows:

§ 912.25 Selection of handler members of the Indian River Grapefruit Committee.

From the nominations made pursuant to § 912.24, or from other qualified persons, the Secretary shall select six members and six alternate members of the committee. Three such members and their alternates shall be affiliated with bona fide cooperative fresh fruit marketing organizations, and three such members and their alternates shall not be so affiliated: *Provided,* That when membership is reallocated as provided in § 912.24(b), selection shall reflect such reallocation.

[FR Doc.76-30149 Filed 10-15-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 76-CE-27-AD]

CESSNA 401, 402 AND 411 SERIES AIRPLANES

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an Airworthiness Directive (AD) applicable to Cessna 401, 402 and 411 series airplanes. The manufacturer has accomplished tests and calculations which establish inspection intervals for the wing front spars of Cessna 401, 402 and 411 series airplanes. As time in service is accumulated beyond the specified inspection time the probability of cracks developing in critical components of the wings increases. If these cracks are not detected and appropriate action taken the cracks could progress to complete failure of the wing structure. To preclude such failure, the manufacturer has developed and recommends in Cessna Service Letter ME-6-19 a procedure for an eddy current inspection of critical areas of the wing front spar lower cap to detect cracks. These inspections are not be conducted after the wings have been in service a specified time. To assure that the manufacturer's recommended instructions are accomplished, an AD is being proposed, applicable to Cessna 401, 402 and 411 series airplanes which will make compliance with the service letter mandatory.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, 1558 Federal Building, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before December 17, 1976 will be considered before action is taken upon the proposed rule. The proposals contained in this Notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rules Docket for examination by interested persons.

The rule proposed herein has been reviewed in accordance with Executive Order 11821 titled "Inflationary Impact Statements" (39 FR 41501, November 29, 1974) and it has been determined that an inflationary impact statement is not required.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new AD.

CESSNA. Applies to 401, 402 and 411 Series Airplanes.

Compliance: Required as indicated, unless already accomplished.

To detect fatigue cracks in critical components of the wing structure, accomplish the following:

(A) On all 401 and 402 series airplanes: Within 200 hours' time in service after the effective date of this AD on those aircraft with 10,800 hours' or more hours' time in service, or upon the accumulation of 11,000 hours' time in service for those aircraft with less than 10,800 hours' time in service and at each 1,000 hours' time in service interval thereafter, and

On all 411 series airplanes:

Within 200 hours' time in service after the effective date of this AD on those aircraft with 8,800 hours' or more hours' time in service or upon the accumulation of 9,000 hours' time in service for all aircraft with less than 8,800 hours' time in service and at each 1,000 hours' time in service interval thereafter:

Inspect the front wing spar lower cap and wing front spar root attach fittings for fatigue cracks using eddy current inspection methods at ten (10) locations along the wing front spar lower cap (5 locations on the right wing and 5 identical locations on the left wing) in accordance with Cessna Service Letter ME 76-19, dated August 23, 1976, or later approved revisions. The ten locations are clearly defined in said service letter.

(B) If cracks are found as a result of any inspection performed pursuant to Paragraph A, prior to further flight, contact Cessna Aircraft Corporation for repair or replacement instructions and satisfactorily perform said instructions.

(C) Inspection intervals set forth in Paragraph A may be adjusted up to 50 hours' time in service to 250 hours and 1,050 hours' respectively to allow said inspections to be performed at regularly scheduled inspection or maintenance periods.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

Issued in Kansas City, Mo., on September 29, 1976.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc.76-30274 Filed 10-15-76;8:45 am]

CIVIL AERONAUTICS BOARD

[EDR-309; Docket No. 29912, October 12, 1976]

[14 CFR Part 223]

TARIFFS OF AIR CARRIERS

Free and Reduced-Rate Transportation

Notice is hereby given that the Civil Aeronautics Board has under consideration a proposed amendment to Part 223 of its Economic Regulations (14 CFR Part 223), which would provide that carriers seeking to provide free or reduced-rate transportation pursuant either to a contractor agreement with a foreign government or to a foreign government law or directive must obtain prior approval from the Board. The carrier would be authorized to provide the transportation if it is found to be consistent with the public interest.

The background of the proposed amendment is described in the attached Explanatory Statement, and the proposed amendment is set forth in the Proposed Rule. The amendment is proposed under the authority of sections 204(a) and 403 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 (as amended by 74 Stat. 445); 49 U.S.C. 1324, 1373.

Interested persons may participate in the proposed rulemaking through submission of twenty (20) copies of written data, views, or arguments pertaining thereto, addressed to Docket 29912, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Individual members of the general public who wish to express their interest as consumers by participating informally in this proceeding may do so through submission of comments in letter form to the Docket Section at the above address, without the necessity of filing additional copies thereof. All relevant material received on or before November 17, 1976 will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710 Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C. upon receipt thereof.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

EXPLANATORY STATEMENT

Pursuant to authority granted by the provisions of section 403(b) of the Federal Aviation Act of 1958, as amended, Part 223 of the Board's regulations permits carriers engaged in overseas or foreign air transportation to provide free and reduced-rate overseas and foreign air transportation to certain described classes of persons other than those specifically mentioned in section 403(b) of the Act. In addition to certain specified

classes of persons, §223.2(b) (3) provides that:

(b) Any carrier engaged in overseas or foreign air transportation may provide free or reduced-rate overseas or foreign air transportation to:

* * * * *

(3) Other persons to whom such carrier is required to furnish free or reduced-rate transportation by law or government directive or by a contract or agreement, now or hereafter in effect, between such carrier and the government of any country served by such carrier, but only to the extent so required and only if such contract or agreement is filed with the Board and if the provisions thereof relating to such transportation are not disapproved by the Board as being contrary to the public interest: *Provided, however,* that the foregoing provision shall not be applicable to free or reduced-rate overseas or foreign air transportation pursuant to a law or government directive that requires the furnishing of such transportation to the general public or any segment thereof, and that the Board may without prior notice direct the carrier to file a tariff covering such transportation if the Board finds that the law or government directive in question requires the provision of such transportation.

Thus, under the terms of the section, neither laws nor government directives requiring a carrier to furnish free or reduced-rate overseas or foreign air transportation are expressly required to be filed with and approved by the Board, even though such a requirement is implicit in the language of the proviso to § 223.2(b) (3) which prohibits the furnishing of such transportation to the general public or any segment thereof.

We now propose to require the filing of laws and government directives, as well as contracts and agreements. This, we believe, will provide us with more accurate information on the amount of free and reduced-rate transportation being provided by the industry. It will also serve to alert us to any potential violation of the proviso of § 223.2(b) (3), i.e., the provision of government-ordered free or reduced-rate transportation to a segment of the general public.

We are also proposing to require carriers to obtain prior Board approval for any free transportation provided under § 223.2(b) (3), whether pursuant to a government order or to a contract or agreement. We believe that requiring affirmative action on our part will ultimately work to the benefit of both ourselves and the industry. The carriers will benefit from the elimination of the sort of problems inherent in the present regulation with regard to contracts and agreements. Once a carrier has filed the contract or agreement, it still faces the uncertainties caused by the possibility of Board disapproval, which could come at any time. Under our proposed rule, carriers will have better information on the status of their application. The Board, in turn, will be able to reduce the problems caused by last-minute requests.

The proposed rule contains one additional change. The existing language of the proviso expressly prohibits the use of § 223.2(b) (3) for the purpose of furnishing free or reduced-rate transportation to a segment of the general public. Since the proposed rule would require prior approval for all free or reduced-rate transportation under this subparagraph, this specific prohibition is superfluous. We have therefore removed it for editorial purposes. However, no substantive change is involved; we are retaining the right to require the carrier to file a tariff whenever the Board finds that a contract, agreement, law, or government directive provides for free or reduced-rate transportation to the general public or a segment thereof.

It is proposed to amend Part 223 of the Economic Regulations (14 CFR Part 223), as follows:

Section 223.2 is amended to read as follows:

§ 223.2 Persons to whom free and reduced-rate transportation may be provided.

Any carrier may furnish free or reduced-rate transportation to those classes of persons as hereinafter set forth:

* * * * *

(b) Any carrier engaged in overseas or foreign air transportation may provide free or reduced-rate overseas or foreign air transportation to:

* * * * *

(3) Other persons to whom such carrier is required to furnish free or reduced-rate transportation by law or government directive or by a contract or agreement, now or hereafter in effect, between such carrier and the government of any country served by such carrier, but only to the extent so required and only if such law or government directive or contract or agreement is filed with the Board and the provision of such transportation is approved by the Board: Provided, however, That the Board may without prior notice direct the carrier to file a tariff covering free or reduced-rate overseas or foreign air transportation pursuant to a law, government directive, contract, or agreement that requires the furnishing of such transportation to the general public or to any segment thereof.

[FR Doc.76-30435 Filed 10-15-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

[10 CFR Part 51]

LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Uranium Fuel Cycle Impacts From Spent Fuel Reprocessing and Radioactive Waste Management

Pursuant to the National Environmental Policy Act of 1969 (NEPA), an environmental impact statement is prepared by the Commission in connection with issuance of a construction permit or operating license for each light water nuclear power reactor. These statements contain a detailed evaluation of the environmental impacts of construction and operation of the plant and a discussion of reasonable alternatives, as well as an overall assessment of the costs and benefits of the licensing action.

In November 1972, a document entitled "Environmental Survey of the Nuclear Fuel Cycle" was published by the Directorate of Licensing of the Atomic Energy Commission (AEC). The purpose of that document was to establish a technical basis for informed consideration of environmental effects of the uranium fuel cycle in the environmental impact statements for individual light water power reactors (LWR's). In the Survey the nuclear fuel cycle was treated generically. This permitted an overview of the entire industry without the need to evaluate particular plants. To compensate for the consequent lack of specific site and design detail, estimates were made of effluent concentration, radiation dose rates, and human population densities appropriate to the model fuel-cycle facilities. This approach was necessary because it was not possible to trace the fresh and spent fuel for an individual reactor back or forward through the fuel cycle and thereby pinpoint environmental impacts at specific plants at specific points in time.

Comments on the Environmental Survey were solicited, and in informal rulemaking hearing was held on February 1 and 2, 1973. The purpose of the hearing was to consider possible amendments of Appendix D of 10 CFR Part 50 which would, by rule, specify the environmental effects of the uranium fuel cycle to be factored into the assessment of costs and benefits in environmental impact statements for individual LWR's. Written comments were received in response to the FEDERAL REGISTER notice, and recommendations for improvement were offered during the hearings. After consideration of the written comments and the hearing record, the AEC promulgated the final fuel cycle rule (so-called Table S-3) on April 22, 1974 (39 FR 14188). It was intended that, with the inclusion of environmental impacts from Table S-3, the environmental impact statements for individual LWR's would represent a full and candid assessment of costs and benefits consistent with the legal requirements and spirit of NEPA. The AEC indicated in its decision that the rule and survey would be reexamined from time to time to accommodate new information.[1]

The same Table S-3 is now included in 10 CFR Part 51.

[1] In this regard, the Nuclear Regulatory Commission Staff is initiating a study designed to examine information that has developed since promulgation of the fuel cycle rule in 1974 for the purpose of updating the rule in areas other than waste management and reprocessing.

On January 19, 1975, the Atomic Energy Commission was abolished and its licensing and regulatory responsibilities transferred to the Nuclear Regulatory Commission (Commission). On July 21, 1976, the United States Court of Appeals for the District of Columbia Circuit decided *"Natural Resources Defense Council* v. *NRC,"* a case involving judicial review of the fuel-cycle rule, and *"Aeschliman* v. *NRC,"* a related case involving the exclusion of fuel cycle issues from an individual power reactor licensing proceeding. The Court approved the overall approach and methodology of the fuel cycle rule. It found that, "[r]egarding most phases of the fuel cycle * * * the underlying Environmental Survey represented an adequate, even admirable job, of describing the processes involved." The Court noted that the survey assembled data on consumption of resources, discussed the risks of accidents and other hazards in detail, and provided numerous references to the scholarly literature and technical reports in support of the conclusions as to environmental impact. However, the Court found that the rule was inadequately supported by the record insofar as it treated two particular aspects of the fuel cycle—the impacts from reprocessing of spent fuel and the impacts from radioactive waste management.

The Commission issued a General Statement of Policy (41 FR 34707, August 16, 1976) in response to the decisions. In that statement, the Commission announced its intention to reopen the rulemaking proceeding on the environmental effects of the fuel cycle to supplement the existing record on waste management and reprocessing impacts and to determine whether the rule should be amended, and, if so, in what respect. The Commission directed the Staff to prepare on an expedited basis a well-documented supplement to the survey to establish a basis for identifying environmental impacts associated with fuel reprocessing and waste management activities that are attributable to the licensing of a model light-water reactor.

The revised survey, "Environmental Survey of the Reprocessing and Waste Management Portions of the LWR Fuel Cycle," NUREG–0116 (Supplement 1 to WASH–1248) (hereinafter referred to as "supplement"), has now been completed and copies are available for public inspection at the Commission's Public Document Room at 1717 H St., N.W., Washington, D.C. 20555.

In the original fuel cycle rule the environmental impacts for the fuel cycle activities necessary for the support of a LWR were summarized in a Table S–3. These effects were also displayed by type of activity in Table S–3A of WASH–1248, April 1974. In the supplement, only the environmental impacts that would fall under the columns entitled "Reprocessing" (Column F) and "Waste Management" (Column G) of Table S–3A of WASH–1248. (and related transportation—part of Column H) are addressed, consistent with the Court decisions and the Commission's General Statement of Policy. The Table set forth below shows proposed revisions to Table S–3 in light of the supplement. The format of Table S–3A is followed in order to show the separate impacts from reprocessing and waste management. Both the old and new impact values are included to facilitate review. Any final interim rule will revert back to the Table S–3 format.

"Waste management," as that term was used in the fuel cycle rule and is used in this notice of proposed rulemaking, refers to the handling of wastes from post-fission operations in the fuel cycle, or other operations from which wastes arise and are shipped to some storage or burial facility. In the fuel cycle rule wastes disposed of at the sites of their generation (e.g., tailings from mills) were included in the impacts from those operations (i.e., in the other appropriate columns of Table S–3A). These wastes are mentioned in the supplement in the description of the fuel cycle, but since these aspects of the original survey were upheld by the Court, they are not addressed here.

A complete understanding of the management of nuclear wastes requires a discussion of the operations through which wastes pass from the place and time of their generation to their disposal. Therefore, the supplement discusses the operations at each plant in which the wastes are treated, stored, and prepared for shipment to offsite storage or disposal facilities. The supplement also deals with the transportation of these wastes.

In a reprocessing plant, the highly radioactive spent-fuel elements are chopped into short segments, the fuel is dissolved by strong acid, and the resultant solution is separated chemically to give (1) uranium in solution, (2) plutonium in solution, and (3) fission products and unwanted actinides in the waste stream. In this process, a number of other materials become contaminated and emerge as wastes of lesser radioactivity. All of these materials are made into a form suitable for shipment to the next step in the fuel cycle or to disposal. The impacts of all these processes are addressed in the supplement.

In the recently issued report "Final Generic Environmental Statement on the Use of Recycle Plutonium in Mixed Oxide Fuel in Light Water Cooled Reactors," NUREG–0002 (hereafter referred to as GESMO), five alternative fuel cycle options were evaluated, and three were reviewed in detail: no recycle, uranium-only recycle, and uranium and plutonium recycle. The fuel cycle rule, Table S–3, had as its base a modification of the uranium-only recycle process in which separated plutonium was stored for possible later use, rather than being recycled or treated as a waste stream as in GESMO. This supplement considers the no-recycle fuel option in addition to the uranium-only recycle option. For the latter, plutonium is treated as a waste. The uranium-plutonium recycle option is treated in detail in GESMO and is beyond the scope of this proceeding. The individual entries in the revised Table which follows are maximized in that they are based on the uranium-only recycle process, or no-recycle, whichever produced the greater impacts.

In the supplement the model fuel-cycle facilities, in terms of capacities, waste generation rates, and types of waste produced, are drawn from GESMO, and the environmental impacts associated with reprocessing and waste management activities are normalized to a model reactor corresponding to that in WASH–1248.

The supplement represents a full and candid discussion of spent fuel reprocessing and waste management impacts, and is based on a thorough survey of the available data. Throughout the supplement there is frequent reference to the scholarly literature and technical reports. Indeed, over 175 reports and papers were cited and reviewed. All these references are publicly available.[2] In addition, copies of a petition for rulemaking, submitted by the Natural Resources Defense Council on August 10, 1976, relating to procedures and approach to the assessment of the environmental impacts of reprocessing and waste management, and public comments thereon, have been made available in the Commission's Public Document Room.

In general, the supplement indicates that the available data is adequate for a quantitative assessment of impacts from normal operations of all parts of the reprocessing and waste management system. Accidents were analyzed for most components of the complete system, but the bases for these analyses in the literature were varied, and all accident sequences could not be analyzed. Sample events are analyzed for all system components, and for one part (transportation) data on accidents from normal commercial activities is quite extensive. One of the goals of GESMO was to assess the cumulative impacts of the five fuel cycle alternatives. In Chapter VIII of that document these cumulative impacts through the year 2000 were discussed and tabulated in detail, including detail in the format used in Table S–3A of WASH–1248. These adequately describe the cumulative impacts of reprocessing and waste management with regard to the present generation of light water nuclear power reactors now under review or soon to come under review for licenses.

In areas where information necessary for a complete quantitative assessment of environmental impacts is lacking (risks from sabotage, special risks from disposal of spent fuel or separated plutonium, and risks from failure in the long term of the geologic repository for high level waste) Federal programs are underway to resolve existing uncertainties.

With respect to risks from long term repository failure, representative studies have been done with varying degrees of depth and sophistication, but there are

[2] Those few which are not in commonly available literature have been made available in the Commission's Public Document Room.

still uncertainties in areas such as the effect of waste presence on repository stability; the probabilities and consequences of various types of intrusive acts by humans; the availability of data to be used in modeling studies; the design and regulatory actions needed to minimize possibilities of repository failure; projection of future societal habits and demography, and, finally, the relative importance of the various potential initiating events. Research programs are underway which should resolve most of these uncertainties over the next few years.

Where data necessary for a complete quantiative assessment of impact is lacking, the Commission's expert judgment must be brought to bear on the information available. Among the issues the Commission expects to be addressed in comments on the Supplement and this proposed interim rule and in future hearings is whether the judgments, and supporting reasons, set forth in the supplement regarding such situations are sound. Where contrary judgments are suggested, the bases for those judgments should also be provided. The supplement also includes a summary presentation of ongoing Federal programs directed at providing more complete information. While these programs are not expected to provide substantial new data for a year or more, new information that does develop through these programs or the Commission's continuing analyses in connection with the proceeding will be brought into the analysis.

The revised interim table is being proposed by the Commission as an interim substitute for the waste management and reprocessing values presently set forth in Table S-3A. After receipt and analysis of comments received in response to this notice, a final interm rule may be promulgated for use as a basis for LWR licensing. As the Commission's General Statement of Policy indicated, after promulgation of such a final interim rule, a public hearing will be held in order to facilitate effective public participation on the question whether the interim rule should be amended for future use and, if so, in what respect. The time, place, and format for the hearing will be set forth in a separate FEDERAL REGISTER notice. The interim rule would be used for LWR licensing only during the period of time required for completion of the public hearing and proceedings thereon. In order to reflect the interim character of the rule, any rule adopted will be made effective for no longer than an eighteen month period.

The Commission's present belief is that the supplemental survey can serve as an adequate foundation for such a rule. The supplement is based on a thorough survey of the available data on waste management and reprocessing impacts, and states to the extent now possible the uncertainties and risks associated with these impacts. While the court has required an acceptable substitute for the portions of Table S-3 which it found inadequately supported as the basis for the necessary environmental impact analyses, the obvious impacts of a lengthy cessation of licensing pending final and complete analysis of the questions at issue may be considered in passing on the interim licensing question. Cf. *"Union of Concerned Scientists* v. *A.E.C."*, 499 F. 2d 1069 (D.C. Cir. 1974) at 1081–1086. At the Commission's direction, a separate analysis of the environmental, social and economic impacts of the use of an interim rule for licensing of LWR's has been prepared, entitled "Impacts of Later Reversing A Decision to Adopt or Not to Adopt An Interim Rule Permitting Construction or Operation of Nuclear Power Plants," October 1976. Assuming that a final rule permitting construction or operation of LWR's to proceed is adopted, this study suggests that failure to promulgate an interim rule would result in substantial increases in economic, social, and environmental costs. Substantial costs would also be incurred should construction or operation of LWR's proceed under an interim rule, and the final rule (when factored into individual impact statements) require that ongoing construction or operation cease. Such a cessation of construction or operation would, of course, only occur in this context if the present analysis of reprocessing and waste management impact proves to be dramatically in error. The Commission's present judgment is that such an outcome is unlikely.

The Commission is aware of the several comments filed with it in response to its General Statement of Policy and to the August 10 NRDC petition for rulemaking in this matter. The procedural aspects of that Statement and petition, to the extent not addressed here, will be dealt with in a notice of hearing to be published shortly. Technical aspects of the comments, including NRDC's extensive presentation and the economic data supplied by electric utility groups, have been considered in developing both the supplement and the statement of impacts. Of course, the technical judgments in both documents remain open for further comment in connection with the proposed rule.

The staff found the technical aspects of the NRDC comments, in the main, to state important elements in the area of waste management, but many were outside the scope of the present study. For instance, the staff relied on analysis of available technology (as suggested by NRDC) and dealt with some special waste types (such as spent fuel and plutonium) suggested for consideration. To the extent that some of the suggestions for inclusion were beyond present technology or are not contemplated by any of those responsible for the management of wastes, they were judged not to contribute to a reasonable projection of impacts and were not included in the survey. And, in declining to consider such matters here, the Commission does not imply any judgment regarding the appropriateness of these questions for future inquiry in other proceedings.

This notice of proposed rulemaking does not address several issues identified in the General Statement of Policy. These issues include the question whether the Commission, sua sponte, should initiate show cause proceedings against present holders of LWR construction permits, limited work authorizations, or operating licenses; whether circumstances revealed by the supplement warrant any change in the Commission's policy regarding how cause proceedings against present licensees initiated by others; and whether licenses may be issued in pending cases, and if so under what conditions, in advance of the adoption of an interim rule. Resolution of these questions, or some of them, may be affected by the action of the United States Court of Appeals for the District of Columbia last Friday, October 8. The court, in staying its mandate in the proceeding which led to issuance of the General Statement of Policy, indicated its view that the Commission could continue licensing activities "on condition that (the Commission) shall make any licenses granted between July 21, 1976 and such time when the mandate is issued subject to the outcome of the proceedings herein." The Commission anticipates resolving these questions, in light of the supplement and the court's recent action, in the very near future. In particular, parties to existing show cause proceedings are being invited to submit views regarding the possible suspension of those show cause proceedings to the Secretary of the Commission on or before October 22, 1976.

Table 2.10
SUMMARY OF IMPACTS OF REPROCESSING AND WASTE MANAGEMENT PER RAY
(Columns F, G, and H of Table S-3A)

Natural Resource Use	F[d] Reprocessing (NUREG-0116)	F[d] Reprocessing (WASH-1248)	G[a] Waste Management (NUREG-0116)	G Waste Management (WASH-1248)	H[c] Transportation (NUREG-0116)	H Transportation (WASH-1248)	Fuel Cycle Totals[b] (NUREG-0116)	Fuel Cycle Totals[b] (WASH-1248)
Land (Acres)								
Temporarily Committed	32[h]	3.9	3.2	-		-	94	63
Undisturbed Area	28.5	3.7	2.9	-	-	-	73	45
Disturbed Area	3.5	0.2	0.28	-	-	-	22	18
Permanently Committed	0.12	0.03	2.6[e]	0.2	-	-	7.1	4.6
Overburden moved (millions of MT)	0.1		0.0015	-	-	-	2.8	2.7
Water (millions of gal.)								
Discharged to air	6.6	4.0	0.38	0.13	-	-	159	155
Discharged to water bodies	54.8	6.0	0.051	0.13	-	-	11,023	11,043
Discharged to ground	-	-	0.95	-	-	-	124	121
Total Water	61.4	10.0	1.4	0.26	-	-	11,373	11,319
Fossil Fuel								
Electrical energy (thousand MW-hr.)	4.0	0.45	0.62	.0077	-	-	321	317
Equivalent coal (thousand MT)	1.5	0.16	0.22	.003	0.016	-	117	115
Natural Gas (million scf)	28.6	-	3.3	-	-	-	126	92

[a] Maximized for either of the two cycles (U-only and no recycle).
[b] Including columns A-E of Table S-3A of WASH-1248.
[c] For wastes only.
[d] Differences between NUREG-0116 and WASH-1248 estimates of reprocessing impacts are attributable to the use of a new model plant for this Supplement.
[e] Disposal included here did not appear in WASH-1248.
[f] Not released to the environment.
[g] Major radionuclide releases in the Waste Management column are attributable to the disposal of spent fuel (no-recycle option) and the conservative assumption of complete release of gaseous nuclides in the geologic repository.
[h] The contributions to temporarily committed land are not prorated over 30 years, since the complete temporary impact accrues regardless of whether the plant services one reactor for one year or 57 reactors for 30 years.

Table 2.10 (Continued)

Natural Resource Use	F[d] Reprocessing (NUREG-0116)	F[d] Reprocessing (WASH-1248)	G[a] Waste Management (NUREG-0116)	G Waste Management (WASH-1248)	H[c] Transportation (NUREG-0116)	H Transportation (WASH-1248)	Fuel Cycle Totals[b] (NUREG-0116)	Fuel Cycle Totals[b] (WASH-1248)
Effluents								
Chemical (MT)								
Gases (MT)								
SO_x	5.4	6.2	0.030	-	0.045		4,400	4,400
NO_x	21.9	7.1	0.031	-	0.62	2.6	1,193	1,177
Hydrocarbons	0.5	0.02	0.02	-	0.052	-	14	13.5
CO	0.5	0.04	0.007	-	0.38	-	29.6	28.7
Particulates	0.6	1.6	0.02	-	0.022	-	1,154	1,156
Other Gases								
F	0.05	0.11	-	-	-	-	0.67	0.72
HCl	6E-4	-	0.013	-	-	-	0.14	-
Liquids								
$SO_4^=$	< 0.02	0.4	-	-	-	-	9.9	10.3
NO_3^-	-	0.9	-	-	-	-	25.8	25.7
Fluoride	-	-	-	-	-	-	12.9	12.9
Ca^{++}	-	-	-	-	-	-	5.4	5.4
Cl^-	0.09	0.2	-	-	-	-	8.5	8.6
Na^+	< 0.02	5.3	-	-	-	-	12.1	16.9
NH_3	-	-	-	-	-	-	10.0	11.5
Tailings Solutions (thousands)	-	-	-	-	-	-	240	240
Fe	-	-	-	-	-	-	0.4	0.4
Solids	-	-	0.42	-	-	-	91,000	91,000

Table 2.10 (Continued)

Natural Resource Use	F[d] Reprocessing (NUREG-0116)	F[d] Reprocessing (WASH-1248)	G[a] Waste Management (NUREG-0116)	G Waste Management (WASH-1248)	H[c] Transportation (NUREG-0116)	H Transportation (WASH-1248)	Fuel Cycle Totals[b] (NUREG-0116)	Fuel Cycle Totals[b] (WASH-1248)
Effluents (Cont'd.)								
Radiological (curies)								
Gases (including entrainment)								
Rn-222	-	-	0.0071	-	-	-	74.5	74.5
Ra-226	-	-	5.3E-7	-	-	-	0.02	0.02
Th-230	-	-	5.3E-7	-	-	-	0.03	0.03
Uranium	0.000039	-	7.9E-6	-	-	-	0.034	0.032
Tritium (thousands)	18.1	16.7	149	-	-	-	18.1	16.7
Kr-85 (thousands)	400	350	2999	-	-	-	400	350
I-129	0.03	0.0024	1.3[g]	-	-	-	1.3	0.0024
I-131	0.03	0.024	-	-	-	-	0.03	0.024
Fission Products	0.18	1.0	0.003	-	-	-	0.021	1.0
Transuranics	0.023	0.004	0.0014	-	-	-	0.024	0.004
C-14	24	-	199	-	-	-	24	-
Liquids								
Uranium & Daughters	-	-	5.4E-6	-	-	-	2.1	2.1
Fission & Activation Products	-	-	5.9E-6	-	-	-	5.9E-6	-
Ra-226	-	-	-	-	-	-	0.0034	0.0034
Th-230	-	-	-	-	-	-	0.0015	0.0015
Th-234	-	-	-	-	-	-	0.01	0.01
Tritium (thousands)	-	2.5	-	-	-	-	-	2.5
Ru-106	-	0.15	-	-	-	-	-	0.15
Solids (buried onsite)[f]								
Other than high level (shallow)	0.52	-	4,700	-	-	-	5,300	601
TRU & HLW (deep)	-	-	1.1E+7	-	-	-	1.1E+7	-
Thermal (billions of Btu)	75.5	61	88	1.0	0.014	0.03	3,462	3,360

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, NEPA, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that adoption of the substance of the following Table is contemplated as a revision to Table S-3 of 10 CFR Part 51. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments, or to submit comments on the underlying supplement to Wash-1248 or impact analysis, should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by December 2, 1976. Copies of the supplement and impact analysis may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C. and at the Commission's local Public Document Rooms. Copies of the comments received in response to this notice will be placed in the Commission's Public Document Room in Washington, as received. Single copies of the supplement and impact analysis may be obtained without charge, to the extent of supply, by writing to the Division of Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(Sec. 161, Pub. L. 83-703, as amended, 68 Stat. 948, as amended (42 U.S.C. 2201); Sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332), Sec. 201, Pub. L. 93-438, as amended, 88 Stat. 1242, 89 Stat. 415 (42 U.S.C. 5841).)

For the Nuclear Regulatory Commission.

Dated at Washington, D.C., this 13th day of October 1976.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.76-30353 Filed 10-13-76;11:39 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Air Force

CRAIG AFB, ALABAMA AND WEBB AFB, TEXAS; CLOSURE

Public Hearings on Draft Environmental Impact Statement

OCTOBER 15, 1976.

Reference is made to informal public hearings announced in the FEDERAL REGISTER 41 FR 43498, dated October 1, 1976, on the Draft Environmental Impact Statement on the Proposed Closure of Craig AFB, Alabama and Webb AFB, Texas.

At the request of public officials and local community leaders, two of the six public hearings have been rescheduled as follows:

Date: November 11, 1976.
Time: 7:00 p.m.
Place: Gantz Center, 2500 E. Main, Enid, OK 73701.
Date: November 4, 1976.
Time: 7:00 p.m.
Place: Big Spring High School Auditorium, 11 Place, Big Spring, TX 79720.

All other arrangements for the evening public hearings remain unchanged. Additional informal public hearings have been scheduled to allow maximum participation by public officials and community leaders. These afternoon hearing sessions are scheduled as follows:

Date: October 18, 1976.
Time: 1:30–4:30 p.m.
Place: Chamber of Commerce Auditorium, 318 7th Street North, Columbus MS 39701.
Date: November 11, 1976.
Time: 1:00–4:00 p.m.
Place: Gantz Center, 2500 E. Main, Enid OK 73701.
Date: October 27, 1976.
Time: 1:30–4:30 p.m.
Place: Civic Center, Avenue F, Del Rio TX 78840.
Date: November 4, 1976.
Time: 1:00–4:00 p.m.
Place: Big Spring High School Auditorium, 11 Place, Big Spring, TX 79720.
Date: November 8, 1976.
Time: 1:00–4:00 p.m.
Place: Chamber of Commerce, Board of Directors Room, 902 Texas Avenue, Lubbock TX 79401.

Any further changes to the public hearing scheudle will be announced in the local news media.

FRANKIE S. ESTEP,
Air Force Federal Register, Liaison Officer, Directorate of Administration.

[FR Doc.76-30688 Filed 10-15-76;9:53 am]

Department of the Navy

CHIEF OF NAVAL OPERATIONS EXECUTIVE PANEL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Chief of Naval Operations Executive Panel Advisory Committee will meet on November 3, 1976, at the Applied Physics Laboratory (APL) of the Johns Hopkins University, Laurel, Maryland. The meeting will commence at 8:30 a.m. and terminate at 5:30 p.m. The meeting will be closed to the public.

The agenda will consist of matters required by Executive Order to be kept secret in the interest of national defense, including briefings by APL personnel on technology relating to SSBN (Submersible Ship Ballistic Nuclear) security. The Secretary of the Navy has therefore determined in writing that the public interest requires that the meeting be closed to the public because it will be concerned with matters listed in section 552(b) (1) of title 5, United States Code.

Dated: October 13, 1976.

JOHN S. JENKINS,
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.76-30430 Filed 10-15-76;8:45 am]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON NET TECHNICAL ASSESSMENT

Advisory Committee Meeting

The Defense Science Board Task Force on "Net Technical Assessment" will meet in closed session on November 9–10, 1976 at the Central Intelligence Agency, Langley, Virginia.

The overall mission of this Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on US/USSR overall research and engineering technology programs and to provide guidance for U.S. technology exploitation in these areas to the Department of Defense.

The Task Force will examine in detail the important problem of determining critical intelligence technical requirements of the Department of Defense, the ways in which answers to these requirements would influence future U.S. R&D/operational actions, any time urgency associated with the requirements and collection methods for satisfying these requirements.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552(b) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD, (Comptroller).

OCTOBER 13, 1976.

[FR Doc.76-30385 Filed 10-15-76;8:45 am]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a), authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on (undated) B. David Halpern, Polysciences, Inc., Paul Valley Industrial Park, Warrington, PA 18976, made application to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinols, a basic class controlled substance in schedule I, for the importation of unique isomers and semi-synthetic manufacturers for supply to researchers and analytical laboratories as standards.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than November 18, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: October 7, 1976.

FREDERICK A. RODY, Jr.,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-30413 Filed 10-15-76;8:45 am]

MANUFACTURE OF CONTROLLED SUBSTANCES

Application

Section 303(a)(1) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 823(a)(1)) states:

> The Attorney General shall register an applicant to manufacture controlled substances in schedule I or II if he determines that such registration is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on the effective date of this part. In determining the public interest, the following factors shall be considered:
>
> (1) maintenance of effective controls against diversion of particular controlled substances and any controlled substance in schedule I or II compounded therefrom into other than legitimate medical, scientific, research, or industrial channels, by limiting the importation and bulk manufacture of such controlled substances to a number of establishments which can produce an adequate and uninterrupted supply of these substances under adequately competitive conditions for legitimate medical, scientific, research, and industrial purposes;

Pursuant to § 1301.43 of Title 21 of the Code of Federal Regulations (CFR), notice is hereby given that on September 15, 1976, Hoffman LaRoche, Inc., Kingland Road & Bloomfield Avenue, Nutley, New Jersey 07110, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug:	Schedule
Dextrorphan	I
Alphaprodine	II

Pursuant to Section 301 of the Controlled Substances Act (21 U.S.C. 821), and in accordance with 21 CFR 1301.43 (a), notice is hereby given that the above firm has made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances indicated, and any other such person, and any existing registered bulk manufacturer of the above substances may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on the application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than November 18, 1976.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street, NW., Washington, D.C. 20537.

Dated: October 7, 1976.

FREDERICK A. RODY, Jr.,
Acting Deputy Administrator,
Drug Enforcement Administration.

[FR Doc.76-30412 Filed 10-15-76;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 2628]

ALABAMA POWER CO.

Recreational Development Plan

OCTOBER 6, 1976.

In the matter of order granting rehearing and amending license.

On August 5, 1976, the Commission approved a recreational development plan filed by Alabama Power Company (hereinafter Licensee) in compliance with Article 46 of its license for the R. L. Harris Project No. 2628. The order of August 5 approved, subject to certain conditions, Licensee's proposed development schedule for four public recreation sites, an overlook in the dam area, and a public fishing facility in the tailrace area. Before us now is a timely application for rehearing of the August 5, 1976, order, filed on September 7, 1976, by which Licensee seeks certain minor modifications of the order and of the Project No. 2628 license.

One modification sought by Licensee would correct an error made by the Commission. The August 5 order added a new Article 59 to the license, requiring Licensee to file a plan for a permanent visitors' center overlooking the project power facilities by January 31, 1977. Some weeks later, by letter of the Commission's Secretary dated August 24, 1976, another Article 59, this one dealing with amortization reserves, was added to the Project No. 2628 license. By this order we amend the shorter of the two articles—that requiring the filing of plans for the permanent overlook—to make it Article 60. The article concerning amortization reserves shall remain Article 59, as stated in the Commission's August 24, 1976, letter to Licensee.

Licensee also seeks to modify Article 59 (now Article 60) to allow the proposed location of the permanent overlook area to be either on the east or the west side of the Harris Project, rather than on the west side only, as currently specified. Licensee states that it has reevaluated the east side after further consultation with the Bureau of Outdoor Recreation, and decided that the east side of the reservoir may be a more appropriate location. One reason for this conclusion, Licensee states, is that Randolph County has decided to construct a public park and associated access roads on the east side. Licensee states that the location of the overlook area in proximity to the county development may be a superior alternative.

We concur in Licensee's request for flexibility in siting the overlook area, and accordingly further amend the license in the manner provided below.

The Commission finds: The application for rehearing filed in this proceeding by Alabama Power Company presents facts that warrant modification of the Commission's order of August 5, 1976, and amendment of the license for Project No. 2628, as provided below.

The Commission orders: Article 59 of the license for Project No. 2628, added to the license by order issued on August 5, 1976, is hereby amended to read as follows:

Article 60. Licensee shall, by January 31, 1977, file for Commission approval a site plan for the permanent overlook area showing its location on the west side or the east side of the reservoir, as determined after consulation with the Bureau of Outdoor Recreation of the U.S. Department of the Interior and the State of Alabama Department of Conservation and Natural Resources.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30343 Filed 10-15-76;8:45 am]

[Docket No. RP 75-80]

ALABAMA-TENNESSEE NATURAL GAS CO.

Refund Report

OCTOBER 7, 1976.

Take notice that on September 27, 1976, Alabama-Tennessee Natural Gas Company (A-T) tendered for filing schedules and receipts of refunds made on June 25, 1976, pursuant to the Commission's Order issued June 18, 1976, in Docket No. RP 75-80 according to A-T.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of

this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30353 Filed 10-15-76;8:45 am]

[Docket No. RP72-142 (PGA 76-8a)]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 8, 1976.

Take notice that Cities Service Gas Company (Cities Service) on September 30, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1 in accordance with the Commission's "Order Modifying Opinion No. 770", issued September 22, 1976.

This filing amends its Special Opinion Nos. 770 and 742-A PGA filing heretofore made on September 10, 1976 in accordance with said September 22, 1976 Commission order.

Such revised rates are reflected on Substitute Second Revised Sixteenth Revised Sheet PHA-1 (issued September 27, 1976) which reflects a current adjustment of 6.93c per Mcf, and a total increase of $20.229,296 based on the test year ended July 22, 1976.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceedings in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30358 Filed 10-15-76;8:45 am]

[Project No. 201]

CITY OF PETERSBURG, ALASKA

Application for New License (Major)

OCTOBER 8, 1976.

Public notice is hereby given that an application for a new license (major) was filed on November 12, 1975, under the Federal Power Act (16 U.S.C. 791a-825r) by the City of Petersburg, Alaska (Correspondence to: Mr. William K. Mearig, Manager, Municipal Power and Light Department, City of Petersburg, Post Office Box 329, Petersburg, Alaska 99833) for the existing Blind Slough Project, FPC Project No. 201, located on Crystal Creek in the Wrangell-Petersburg Census Division of Mitkof Island near the City of Petersburg, Alaska. The project affects lands of the United States within Tongass National Forest and the Petersburg exclusion area.

The existing project consists of: (1) A 93-foot-long concrete-faced rockfill dam with a spillway crest elevation of 1,294 feet; (2) Crystal Lake with a usable storage capacity of approximately 4,900 acre-feet; (3) a 4,642-foot-long penstock, 20 inches in diameter; (4) a wood frame powerhouse, 30 by 47 feet, containing two generating units, each with a capacity of 400 kW; (5) a reinforced-concrete powerhouse, 27.5 by 38 feet, containing one generating unit with a capacity of 1600 kW; (6) a 16-mile-long 22-kV transmission line to the City of Petersburg; and (7) appurtenant facilities. Power produced by the project is integrated into Applicant's electric system.

Applicant proposes to enlarge the project by: (1) Raising the spillway crest to elevation 1,305 feet and increasing the dam's length to 124 feet, thus increasing the usable storage capacity at Crystal Lake to 7,300 acre-feet; (2) constructing a diversion canal approximately 7,000 feet in length leading into Crystal Lake; (3) constructing a new 26-inch diameter penstock parallel to the existing penstock; (4) expanding the existing reinforced-concrete powerhouse 28.5 feet by 38 feet in plan and installing therein a new 2610-kW generating unit; and (5) reinsulating the transmission line for 34.5 kV in order to transmit the increased power output. Proposed recreational facilities would include a picnic area at Crystal Lake and a hiking trail between the powerhouse and the damsite.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 15, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing the rein must file a petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by sections 308 and 309 of the Federal Power Act (16 U.S.C. 825g, 825h) and the Commission's rules of practice and procedure, specifically § 1.32(b) (18 CFR 1.32(b)), as amended by Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein, and if the Applicant requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or Applicant fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30376 Filed 10-15-76;8:45 am]

[Docket Nos. RP76-76, RP72-122 (PGA 76-5)]

COLORADO INTERSTATE GAS CO.

Revised Changes in Rates

OCTOBER 8, 1976.

Take notice that Colorado Interstate Gas Company (CIG) on September 9, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, pursuant to ordering Paragraph (B) of the Commission's Order issued April 30, 1976, in Docket No. RP76-76.

The purpose of the filing is to comply with the directive stated in the Commission's Order of April 30, 1976, to reflect the elimination from Docket No. RP76-76 of costs associated with facilities which have not been certificated and placed in service by October 1, 1976. As a result of this filing, the jurisdictional cost of service in Docket No. RP76-76 will be reduced approximately $152,000.

Replacement Sixteenth Revised Sheet Nos. 5 and 6 are proposed to be substituted for and to replace Sixteenth Revised Sheet Nos. 5 and 6 as filed with the Commission on March 31, 1976, in Docket No. RP76-76 and suspended by the Commission until October 1, 1976, in its order issued April 30, 1976. Replacement Substitute Sixteenth Revised Sheet Nos. 5 and 6 are proposed to be substituted for and to replace Substitute Sixteenth Revised Sheet Nos. 5 and 6, as filed with the Commission on August 13, 1976, in Docket No. RP72-122 (PGA 76-5). CIG requested that the replacement tariff sheets be made effective as of October 1, 1976, the date previously requested in Docket Nos. RP76-76 and RP72-122 (PGA 76-5).

Copies of this filing have been served upon the Company's jurisdictional customers and upon interested public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in deter-

mining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30371 Filed 10-15-76;8:45 am]

[Docket No. E-9563]

DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION

Conference

OCTOBER 7, 1976.

Take notice that an informal conference will be held in Room 6200 at the Federal Power Commission, 825 N. Capitol Street N.E., Washington, D.C., on October 21, 1976, at 10:00 a.m.

The purpose of the conference is to discuss certain issues related to Bonneville Power Administration's proposed Transmission Rate Schedules and Provisions. Parties should come prepared to present their views. They will have the opportunity to ask questions and for clarifications of other parties' positions.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30352 Filed 10-15-76;8:45 am]

[Docket No. CP65-393 etc.]

FLORIDA GAS TRANSMISSION CO. ET AL.

Order Granting Interventions, Dismissing Proceeding, Consolidating Proceedings, and Setting Evidentiary Hearing

OCTOBER 8, 1976.

In the matter of Florida Gas Transmission Co., Amoco Production Company, a subsidiary of Standard Oil Company of Indiana, Columbia Gulf Transmission Company, Natural Gas Pipeline Company of America.

By order issued September 15, 1965 (34 FPC 852), in Docket No. CI65-584, the Commission granted a certificate of public convenience and necessity to Pan American Petroleum Corporation (predecessor to Amoco Production Company, a subsidiary of Standard Oil Company of Indiana (Amoco)) to sell gas to Florida Gas Transmission Company (FGT) pursuant to a warranty-type gas sales contract dated November 20, 1964, between FGT as buyer and Amoco and Austral Oil Company, Inc. (hereinafter referred to as Amoco), as sellers. The contract did not commit or dedicate to FGT specific leases or fields, but Amoco agreed to sell a total of 584,400,000 Mcf over the life of the contract.

The Commission in its September 15 order required that no more than 50 percent of the gas sold under the certificate shall originate from areas outside the tax jurisdiction of the State of Louisiana.

In Docket No. CP65-393, the Commission issued a certificate of public convenience and necessity to FGT to construct and operate new facilities to transport gas for a direct sale by Amoco to Florida Power and Light Company (FPL). (Opinion No. 516, 37 FPC 342; order issued May 29, 1967, 37 FPC 993.) Underlying the transportation certificate in Docket No. CP65-393 was a warranty contract dated March 12, 1965, which provides for the sale by Amoco to FPL of 100,000 MMBtu of gas per day in 1967 and 200,000 MMBtu of gas per day in 1968 and subsequent years for 20 years or until a total volume of 1.424 trillion MBtu of gas are delivered, whichever is first. The gas to be purchased by FPL was to be used in fueling boilers in electric generating plants.

The certificate issued to FGT in Docket No. CP65-393 was subject to a condition that the proportion of gas produced from the offshore fields must not exceed more than 85 percent of the amount of gas produced in the south Louisiana area; and that the Amoco-FPL contract was still effective. On rehearing the percentages were changed to 82 percent offshore and 18 percent onshore. Amoco indicates that it has delivered 507,068,350, MMBtu of gas under its sale to FPL as of May 31, 1975, and 284,810,997 Mcf of gas under its sale to FGT as of December 31, 1975.

The Commission issued, on May 16, 1975, in Docket Nos. CI65-584 and CP65-393, an order directing Amoco and FGT to show cause why the certification of the sales of gas by Amoco to FGT and of the transportation of gas by FGT to FPL should not be amended, limited, or otherwise modified.[1]

Petitions to intervene in the show cause proceedings have been filed by: Public Counsel for the State of Florida, Independent Natural Gas Associates of America, State of Florida through its Attorney General, FGT, Southern Gas Company, Cities Gas Company of Florida and Ft. Pierce Utility Authority et al.

Amoco responded to the order to show cause asserting that the certificate orders issued in Docket Nos. CI65-584 and CP65-393 are final and that Amoco is entitled to notice of any modification of such authorizations and the grounds in support of such modification. Amoco further states that while it has been able, to date, to meet its warranty obligations, due to the rapid depletion of and the declining deliverability from the presently connected fields, additional reserves must be connected by April 1, 1977, in order for Amoco to continue to meet its obligations to FPL. Because the bulk of past deliveries was made from onshore Louisiana, Amoco can make all new connections from offshore sources without violating the Commission's prescribed offshore-onshore ratios. Amoco indicates, however, that it might be necessary for it to construct its own lines into the offshore Gulf of Mexico in order to fulfill its obligations, in the event transportation agreements are not approved.

The Florida Public Service Commission filed a response on September 10, 1975, urging that the Commission not disturb the permanent certificates because substantial investments have been made by the pipelines and distribution companies. In a similar vein, FPL's comments, filed September 10, 1975, claim that the Commission has no authority to cancel the certificates, especially since FPL has structured its fuel supply in reliance on the certificates. FPL argues that the only way a certificated service can be cancelled is by a Section 7(b) proceeding under the Act, and that such a proceeding must be initiated by a natural gas company and cannot be instituted by the Commission on its own initiative. FPL warns that the Commission's action might require the substitution of imported oil for natural gas, which will increase air pollution and the cost of fuel to the rate payers.

On February 9, 1976, FGT filed a motion for dismissal of the show cause proceeding and disposition of the transportation proposals by Columbia Gulf Transmission Company (Columbia Gulf) in Docket No. CP73-70, and Natural Gas Pipeline Company (Natural), in Docket No. CP73-157. FGT indicates that it is currently curtailing its customers due to a shortage of gas caused in large measure by the failure of the Commission to act on the pending transportation proposals. As did FPL, FGT maintains that any modification of existing certificates would jeopardize FGT's substantial investment made in reliance thereon. FGT argues that there is no legal basis for the show cause proceeding and it should be dismissed. However, FGT requests that if the show cause proceeding is not dismissed the transportation proposals be granted. FGT states that Amoco indicates that approximately 18,000 Mcf of gas per day would be available if the pending proposals in Docket Nos. CP73-70 and CP73-157 were granted.

The Attorney General of Florida joined in the FGT motion for dismissal. Public Counsel of the State of Florida and the Florida Public Service Commission filed answers supporting FGT's motion.

On February 23, 1976, Amoco moved for consolidation of the proceedings and responded to the motion of FGT. Amoco states that some of the statements submitted by FGT are incomplete and incorrect. Amoco contends that the show cause order should not be dismissed, that consolidation is a prerequisite to expedition in present circumstances, and that further transportation proposals should not be approved until end-use evidence was submitted by FGT and FPL.

On March 9, 1976, FPL filed an answer in opposition to Amoco's motion. FPL argues that if the Commission does not dismiss the show cause proceeding it should not be consolidated with the

[1] On the same day the Show Cause order was issued the Commission dismissed a certificate application of Sea Robin Pipeline Company in Docket No. CP72-119 to construct and operate facilities for the transportation of gas for Amoco from the Offshore Federal Domain. The Commission questioned whether, in light of the natural gas shortage, end-use of the gas to be transported is a relevant concern in any present determination of whether a transportation proposal meets with the public convenience and necessity.

transportation proceedings because there is no direct connection between the transportation proceedings and the show cause order as it relates to the Amoco gas sale contracts.

Natural filed an application in Docket No. CP73–157 on December 12, 1972, for authorization to exchange gas from the West Johnson Bayou Field, Cameron Parish, south Louisiana, with Amoco to enable Amoco to sell such gas pursuant to its warranty contracts with FGT and FPL. Natural and Amoco negotiated an exchange agreement dated August 7, 1972, which provides that Amoco will deliver exchange quantities of gas equal to 50 percent of the gas delivered by Amoco to Natural in the West Johnson Bayou Field, Cameron Parish, south Louisiana, and redeliver equivalent volumes for Amoco's account at the tailgate of Texaco Inc.'s Henry Processing Plant in Vermilion Parish. Amoco has not requested authorization to exchange gas with Natural. The remaining 50 percent of the reserves in the West Johnson Bayou Field are being sold to Natural by Amoco pursuant to a temporary certificate issued in Docket No. CI73–218. It is estimated that up to 3,500 Mcf per day will be exchanged.

On September 12, 1972, Columbia Gulf filed in Docket No. CP73–70, an application as supplemented on November 2, 1972, and amended on April 22, 1974, for authorization to construct and operate facilities and to exchange and transport gas from various fields in south Louisiana and the offshore Federal domain for Amoco in order to permit Amoco to utilize such gas in its sales to FGT and FPL. By agreement dated July 31, 1972, as amended, Columbia Gulf will receive Amoco's uncommitted gas (50% of the reserves) produced in Block 33, East Cameron Area, offshore Louisiana Federal Domain and such volumes will be exchange for an equivalent volume at the interconnection of the pipelines of FGT and Columbia Gulf near Judice, Vermilion Parish, Louisiana (Florida Redelivery Point). In addition, the agreement provides that Columbia Gulf will transport gas for Amoco's account to the Florida Redelivery Point from various points in Louisiana. The cost of facilities necessary for Columbia Gulf to deliver the gas to FGT for Amoco's account is estimated to be $604,200. Amoco has filed an application in Docket No. CI74–566 for a certificate authorizing sales from the remaining 50 percent of its interest to Columbia Gulf, which application is pending approval of the application in Docket No. CP73–70. Amoco has not requested authorization to exchange gas with Columbia Gulf.

The show cause proceeding should be dismissed. In our view, it is not appropriate at this time to raise issues concerning the continued use of FGT's pipeline capacity to satisfy contracts for the delivery of gas to be used as boiler fuel. Accordingly, FGT's motion for dismissal is granted. It is important, however, for the Commission to determine whether to permit the use of Columbia and Natural facilities to assist in the delivery of gas that is ultimately utilized for boiler fuel. As a result, we shall set these matters in Docket Nos. CP73–70 and CP 73–157 for hearing to determine if the proposed activities serve the public interst. In this connection, any evidence as to Amoco's alternative use of the subject gas in the event certificate authorization is not granted here would be relevant to our determination.

Notices of the pendency of these matters in Docket Nos. CP73–70 and CP 73–157 have been properly issued and all interested parties now appear to have entered their participation in such proceedings. A procedural prerequisite to expedition of these proceedings is the consolidation into a single proceeding for development of a comprehensive record on all matters affecting a final decision. Any other interested party may file a petition to intervene in the consolidated proceeding within 15 days of the issuance of this order.

The Commission further finds. (1) Participation by petitioners to intervene may be in the public interest in the proceedings in which they have filed petitions.

(2) The similarity of issues of fact and law between the proceedings in Docket Nos. CP73–70 and CP73–157 require their consolidation for hearing and decision on a single record.

The Commission orders. (A) The show cause proceeding initiated upon the Commission's own motion by order issued May 16, 1975, in Docket Nos. CP65–393 and CI65–584 is dismissed.

(B) All petitioners to intervene are permitted to intervene in the proceedings in Docket Nos. CP73–70 and CP73–157 in which they have filed petitions to intervene subject to the rules and regulations of the Commission; *Provided, however,* That participation by such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and, *Provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrieved, because of any order of the Commission entered in these proceedings.

(C) The applications in Docket Nos. CP73–70 and CP73–157 are hereby consolidated for hearing and decision.

(D) On or before October 29, 1976, Columbia Gulf and Natural and all persons in support of their application in Docket Nos. CP73–70 and CP73–157 shall each file their prepared testimony and exhibits comprising their case-in-chief upon all parties to the consolidated proceedings, the Office of the Administrative Law Judge, and the Commission Staff.

(E) A presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)) shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

(F) Pursuant to the authority of the Natural Gas Act, particularly sections 5, 7, 14, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I), an evidentiary hearing shall be held commencing November 16, 1976, in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the matters in the consolidated proceeding, at which time the witnesses shall be presented in support of the prepared evidence.

(G) Amoco's applications for certificates to exchange gas with Natural and Columbia Gulf shall be filed within 20 days of this order and consolidated herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-30370 Filed 10-15-76;8:45 am]

[Docket No. RP72-140 (PGA76-3)]

GREAT LAKES GAS TRANSMISSION CO.

Filing of Revised Tariff Sheet in Purported Compliance With Commission Order, and Request To Withdraw Certain Other Tariff Sheets

OCTOBER 8, 1976.

Take notice that on September 14, 1976, Great Lakes Gas Transmission Company (Great Lakes) tendered for filing Nineteenth Revised Sheet No. 57 which, Great Lakes states, includes a base average purchased gas cost of $1.546 per Mcf in the base tariff rates as shown thereon. Great Lakes states that said revised tariff sheet is tendered to comply with Ordering Paragraph (B) of the Commission's September 9, 1976 order in the captioned docket. The Company requests that said revised tariff sheet be made effective as of September 10, 1976.

Great Lakes further requests that it be permitted to withdraw three tariff sheets filed on July 14, 1976, in the captioned docket, namely, Second Revised Sheet No. 54 to First Revised Volume No. 1, and Third Revised Sheet No. 53-B and First Revised Sheet No. 53-C to Original Volume No. 2 of its FPC Gas Tariff. Great Lakes states that these three sheets were filed with the Commission on September 14, 1976, in Docket Nos. RP75-94 and RP72-140 (PGA 75-5), and that withdrawal in the instant docket is necessary to eliminate the duplicate sheets.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be

taken,, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30374 Filed 10-15-76;8:45 am]

[Docket No. E-9446]

GREEN MOUNTAIN POWER CO.

Filing of Revised Tariff Sheets

OCTOBER 8, 1976.

Take notice that on September 23, 1976, Green Mountain Power Company (Green Mountain) tendered for filing, pursuant to Ordering Paragraph (B) of the Federal Power Commission's Order Approving Settlement issued September 8, 1976 in this proceeding, copies of Green Mountain Power Corporation's FPC Electric Tariff, Third Revised Sheet Nos. 5, 6, 7, 8 and 9 (Supplemental Power Rate W), which Green Mountain states are in conformity with the terms of the Settlement Agreement filed on June 8, 1976, as amended. These tariff sheets are intended to substitute for Green Mountain's FPC Electric Tariff, Second Revised Sheet Nos. 5, 6, 7, 8 and 9, which became effective, subject to refund, on September 16, 1975.

Green Mountain states that within 30 days after the revised tariff sheets have been accepted for filing by the Commission, Green Mountain will refund to each of its affected customers the difference between the amounts collected under Second Revised Sheet Nos. 5, 6, 7, 8, and 9, and the amounts which would have been collected since September 16, 1975 under Third Revised Sheet Nos. 5, 6, 7, 8, and 9, together with interest at the rate of nine percent per annum.

Further, Green Mountain states that copies of Third Revised Sheet Nos. 5, 6, 7, 8, and 9 are being served on each of Green Mountain's wholesale customers, and upon all parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before October 21, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30375 Filed 10-15-76;8:45 am]

[Docket No. ER76-930]

GREEN MOUNTAIN POWER CORP.

Rate Schedule

OCTOBER 8, 1976.

Take notice that on September 30, 1976 Green Mountain Power Corporation (Green Mountain) tendered for filing a contract between it and New Bedford Gas and Edison Light Company (NBGE) under which NBGE agrees to buy 30.0 MW of the capacity of the Vermont Yankee Nuclear Power Plant, and associated energy. Green Mountain requests an effective date of November 1, 1976 for the rate schedule for the contract. Green Mountain states that the charges related to this sale are determined by the actual cost of capacity and energy to the seller.

Green Mountain states that a copy of this filing has been sent to NBGE and to the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30372 Filed 10-15-76;8:45 am]

[Docket No. ES76-82]

IDAHO POWER CO.

Application

OCTOBER 8, 1976.

Take notice that on September 30, 1976, Idaho Power Company (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the states of Idaho, Oregon, Nevada and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $120,000,000 in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to Lines of Credit with certain banks, and (2) in the form of commercial paper.

Notes in the sum of not to exceed $88,750,000 in an aggregate amount would be issued as bank loans, evidenced by unsecured notes, probably for a maturity of three months after date, and not to exceed one year after date thereof. Of the above total borrowing, $75,000,000 will be made pursuant to the Lines of Credit with three major banks. The remainder of $13,750,000 will be borrowed from a group of banks in Idaho and Oregon at the prime interest rate which, at the present time, is 7¼ percent. The Idaho banks will loan money at the prime rate, which interest rate at the present time is 7¼ percent. The Oregon banks have offered to loan money at 110 percent of the prime interest rate plus a commitment fee. Applicant also requests that the authorization include the right to renew such of said short-term notes as expire prior to one year from the date of such authorization; and that the principal amount of such renewals, if made, either of notes issued under the authorization herein required, or of notes issued under the exemptions set forth in 204(e) of the Federal Power Act, shall not be considered as applying against, or a reduction, of the $97,793,600 authorization herein requested. Applicant further requests authority to substitute commercial paper borrowings for the Line Credit borrowings up to the limits imposed by any applicable statute, rule or regulation.

Unsecured promissory notes in an aggregate principal amount of not to exceed $32,000,000 at any one time outstanding would be issued and sold by Applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the date of issuance, have a maturity of not more than 270 days from the date thereof and be discontinued at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowing will be used in the further financing of Applicant's construction expenditures, which for the period from August 1, 1976 to December 31, 1977, are estimated at approximately $163,863,000. The balance of funds required for construction is expected to come from internally generated cash. Applicant intends to issue $1,000,000 shares of Common Stock at an anticipated issuance price of at least $27 a share and $50,000,000 of First Mortgage Bonds in October of 1976. Further permanent financing, in addition to the Common Stock and First Mortgage Bonds, is expected to be undertaken in 1977, but the amounts and types of securities and the exact timing of the issuance has not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirement of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30380 Filed 10-15-76;8:45 am]

[Docket No. ER76-927]

ILLINOIS POWER CO.

Filing Amendment No. 2; Interchange Agreement

OCTOBER 8, 1976.

Take notice that Illinois Power Company ("Illinois Power") on September 30, 1976, tendered for filing proposed Amendment No. 2 to the Interchange Agreement ("Agreement") dated March 15, 1973, between Iowa-Illinois Gas and Electric Company and Illinois Power. The Commission has previously designated the March 15, 1973 Agreement as Illinois Power Rate Schedule FPC No. 61 and Iowa-Illinois Gas and Electric Rate Schedule FPC No. 34.

The parties state that Amendment No. 2 provides for a proposed increase in the charges effective November 1, 1976, for Emergency, Short-Term Firm Power and Short-Term Non-Firm Power transactions, between Illinois Power and Iowa-Illinois Gas and Electric Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30361 Filed 10-15-76;8:45 am]

[Project No. 1413]

ISLAND PARK RESORTS, INC.

Issuance of Annual License(s)

OCTOBER 8, 1976.

On June 10, 1974, Island Park Resorts, Inc., Licensee for Project No. 1413, located on the Buffalo River in Fremont County, Idaho, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 1413 was issued effective November 1, 1964, for a period ending October 31, 1974. Since the original date of expiration, the project has been under annual licenses, the most recent of which will expire on October 31, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on the Licensee's application, it is appropriate and in the public interest to issue an annual license to the Island Park Resorts, Inc.

Take notice that an annual license is issued to Island Park Resorts, Inc. under the Federal Power Act for the period November 1, 1976, to October 31, 1977, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Project No. 1413, subject to the terms and conditions of its present license. Take further notice that if issuance of a new license does not take place on or before October 31, 1977, a new annual license will be issued each year thereafter, effective November 1 of each year, until such time as a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30373 Filed 10-15-76;8:45 am]

[Docket No. CP74-157]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

OCTOBER 7, 1976.

Take notice that on September 30, 1976, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-157 a petition to amend the order of December 12, 1974, issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act, by which petition Petitioner requests authorization to make a name revision on the presently effective service agreement with one of Michigan Wisconsin's customers to be effective October 1, 1976, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is stated that Indiana Gas Company, Inc. (Indiana Gas) has informed Petitioner that it has received approval on September 2, 1976, from the Public Service Commission of Indiana to merge with its wholly-owned subsidiary, Central Indiana Gas Company Inc. (Central Indiana). Central Indiana will cease to exist as a separate company upon integration with Indiana Gas on October 1, 1976, it is said. Petitioner indicates that the maximum daily quantity of 700 Mcf of gas and the annual contract quantity of 123,200 Mcf under Rate Schedule ACQ-1 for Central Indiana will remain the same upon merger, and therefore Petitioner has consented to the change. Petitioner requests that the Commission's order of December 12, 1974, be amended to authorize deliveries to Indiana Gas under the new service agreement as set forth above commencing October 1, 1976.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 28, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76 30355 Filed 10-15-76;8:45 am]

[Project No. 469]

MINNESOTA POWER LIGHT CO.

Issuance of Annual License(s)

OCTOBER 7, 1976.

On October 9, 1970, Minnesota Power & Light Company, Licensee for Project No. 469, located on the Kawishiwi River in Lake and St. Louis Counties, near the Village of Winton, Minnesota, filed an application for a new license under the Federal Power Act and Commission Regulations thereunder.

The license for Winton Hydro-Electric Project No. 469 was issued effective September 5, 1924, for a period ending October 26, 1973. Since the original date of expiration, the project has been under annual licenses, the most recent of which will expire on October 26, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Minnesota Power & Light Company.

Take notice that an annual license is issued to Minnesota Power & Light Company under the Federal Power Act for the period October 27, 1976, to October 26, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Project No. 469, subject to the terms and conditions of its present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before October 26, 1977, a new annual license will be issued each year thereafter, effective October 27 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30349 Filed 10-15-76;8:45 am]

[Docket No. ER76-830]

MISSISSIPPI POWER & LIGHT CO.

Order Accepting for Filing and Instituting Investigation; Correction

SEPTEMBER 22, 1976.

In FR Doc. 76-26282 appearing in the issue of Thursday, September 9, 1976 on page 38216, delete the words "five municipals'" in the sixth line

of the 1st paragraph and replace with the following words: "The municipals of Canton, Kosciusko, Leland, and Durant".

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.76-30383 Filed 10-15-76;8:45 am]

[Docket No. RP74-97 (PGA76-3)]

MONTANA-DAKOTA UTILITIES CO.

Proposed Change in FPC Gas Tariff

OCTOBER 8, 1976.

Take notice that Montana-Dakota Utilities Company (MDU), on September 27, 1976, tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 4. MDU, in order to track producer rate increases based on Opinion No. 770, has proposed adjustments which will effect an increase of 18.15 cents per Mcf under all three of its rate schedules. These adjustments, which are Gas Cost Adjustments only, have been made pursuant to the Purchased Gas Cost Adjustment Provision of MDU's Tariff, pursuant to Ordering Paragraph (D) of Opinion No. 770, and pursuant to the Commission's "Order Modifying Opinon No. 770," issued September 22, 1976. The proposed effective date of these adjustments is October 27, 1976.

Copies of the filing were served upon MDU's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 15, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30382 Filed 10-15-76;8:45 am]

[Project No. 2301]

MONTANA POWER CO.

Mystic Lake Project

In the matter of order issuing new license (major).

OCTOBER 5, 1976.

The Montana Power Company (Applicant) of Butte, Montana, filed on December 23, 1968, amended December 23, 1969, and supplemented October 29, 1970, and January 6, 1972, an application for: (1) a new major license under Section 15[1] of the Federal Power Act (Act) for the existing 10-megawatt (MW) Mystic Lake Project No. 2301; and (2) authorization to construct a 49-acre re-regulating reservoir to allow peaking operation of the power plant during winter months. The project is located on West Rosebud Creek, a tributary of the Stillwater River, in Custer National Forest and Stillwater County, Montana.

Construction of the Mystic Lake Project began in 1920 and was completed in 1927, with power being first generated on March 20, 1925. The original license[2] was issued October 12, 1962, effective for the period December 1, 1961, to December 31, 1969. The project is presently operating under an annual license issued December 10, 1975.

The Mystic Lake Project consists of a 446-acre storage reservoir impounded by a 45-foot high concrete arch dam, a 12,700-foot long conduit system, a powerhouse with two 5000 kW generators, and the proposed 49-acre re-regulating reservoir. The project works are described in greater detail in paragraph (B) of this order. All power generated at Project No. 2301 is used for public utility purposes.

Public notice of the application for license was issued on August 4, 1971, with October 11, 1971, as the last day for filing of protests or petitions to intervene. Notice of the application was published in the FEDERAL REGISTER on August 14, 1971 (36 FR 14778).

On October 7, 1971, Central Montana Electric Generation and Transmission Cooperative, Inc. (Central) and Mid-West Electric Consumers Association, Inc. (Mid-West) filed a joint petition to intervene[3] stating that they wished to engage in "meaningful regional planning" with Applicant and that any future license should be conditioned to require such planning. On October 22, 1971, Applicant replied that it is a leader in regional planning for the area and would have no objection to conditioning a new license to require the licensee to engage in regional planning to the full extent required by the Act. In this context, we believe that Article 10, inter alia, of the license herein issued adequately provides for the concerns of intervenors and ensures the Licensee's cooperation with regard to regional planning.

The U.S. Department of the Army, Corps of Engineers (Corps), commented by letter dated November 15, 1971, that a recommendation for redevelopment or takeover of the project by the Corps was not warranted, that the project is not in conflict with any existing or proposed Corps project, and that licensing of the project, as modified by the re-regulating reservoir, would have no significant environmental impact from the standpoint of its responsibilities.

The U.S. Department of Health, Education, and Welfare commented by letter dated October 22, 1971, that while it had no recommendations regarding the relicensing of the project, it was of the opinion that the deepened Rosebud Lake (re-regulating reservoir) might reduce the breeding of nuisance mosquitoes.

The Montana State Department of Fish and Game commented by letter dated September 7, 1971, that it believed the proposed re-regulating dam would enhance the sport fishery and that improvement of the reservoir trail and the construction of a parking area and sanitary facilities near the end of the project access road would improve the area's overall recreation potential.

The Montana Water Resources Board commented by letter dated October 5, 1971, that the project enhances the environment and should be relicensed.

The U.S. Department of the Interior commented by letter dated January 3, 1972, that the project does not conflict with any of its existing or proposed projects and that no existing or proposed National Park Service Areas, National Landmarks, or Indian lands are affected by the project. Interior did not recommend Federal takeover of the project, nor did it oppose the issuance of a new license. Interior did, however, make certain recommendations and requests as hereinafter noted.

Interior requested that applicant be required to provide a minimum flow of 10 cfs in West Rosebud Creek, as measured at the weir located in the creek channel just upstream from the power plant, or an amount equal to the inflow to Mystic Lake during periods of lower inflow than 10 cfs. Such flows would enhance fishery conditions in that portion of the stream between Mystic Lake and the powerhouse. Applicant objected to Interior's request for 10 cfs minimum flow, claiming that such a flow requirement would cause a 12 percent reduction in average energy production amounting to a loss of $30,000 annually. By article 34 we are requiring a 10 cfs minimum flow during June, July, and August and 2 cfs for the remainder of the year. This should improve existing conditions by creating a live stream for maintaining trout habitat and by providing for stream angling during the recreation season while the two-year study of minimum flow requirements is taking place as required by Article 34. The minimum flow requirements, hereinafter established by Article 34, would reduce the project's average annual generation by 956,000 kwh. The project's average annual energy production under the Interior proposal would be reduced by an estimated 3,824,000 kwh. We believe that it is in the public interest to maintain a balance between the need for energy production and preservation of fish habitat pending a definitive result from the two-year flow release study required herein.

Interior requested that standard L-form and stream gaging articles be included in any license issued in order to protect the area's fish and wildlife resources. Applicant had no objection to Interior's request and the license reflects the above mentioned articles.

[1] 16 U.S.C. 808.

[2] Order Issuing License (Major), *The Montana Power Company*, Project No. 2301, 28 F.P.C. 586 (1962).

[3] Order Granting Intervention, The Montana Power Company, Project No. 2301, issued April 21, 1972.

Interior also requested that applicant be required to fund an archeological survey and necessary salvage of the project area after consulting with the National Park Service. Such work is recommended before starting construction of the re-regulating reservoir. Applicant proposed instead that the Montana State University Department of Sociology and Archeology perform the survey and any necessary salvage. We believe that Article 36 will properly ensure the preservation of any archeological values which may be associated with the project area.

Interior further recommended that Applicant's Exhibit R be amended to show lands set aside for future (recreational) development and that the exhibit include provision for periodic review. Applicant suggested by letter dated April 7, 1972, that the U.S. Forest Service is the appropriate agency to direct planning of future recreational development in the project area. The Forest Service manages the public use of these lands including the Beartooth Primitive Area, which borders the project area on three sides, and is interested in maintaining the quality of recreational opportunities available to the public. Recognizing the interest of the Forest Service in recreational development, we are requiring Applicant to consult and coordinate with that agency in carrying out its responsibility under its license in providing for recreational planning and for any future recreational development or planning at the project. Applicant would be required to conduct a biennial review of the project's recreational use and development needs and, through consultation with the Forest Service and other appropriate Federal and State agencies, determine what steps for recreational development, if any, need to be taken at the project.[4] We conclude that the recreational use plan as proposed by Applicant's Exhibit R would adequately provide for the present and future public recreational needs at Project No. 2301 and should be included as part of the license.

The U.S. Department of Agriculture, Forest Service proposed by letter dated February 3, 1972, that the Forest Supervisor should be given authority to prevent unauthorized and excessive use of such project facilities as the railway, the tramway, and the dwellings at the powerhouse in order to ensure proper management of the National Forest lands around Mystic Lake. The proposal, which received no objection from Applicant, is included as one of several specific provisions of Article 35 designed to enhance and protect the project's environment during all phases of construction and operation of the project.

The Forest Service also recommended that the term of license be 20 years rather than the maximum of 50 years as requested by Applicant. The Forest Service cites the rapid growth and changing character of the demands for recreational opportunities as well as alternative sources of power planned for the region as evidence that revision of the license may be desirable as early as 20 years from the date of its issuance. The Forest Service subsequently expanded its earlier comments by letter dated September 26, 1975. In that letter Forest Service stated that a longer term would be acceptable if the license was conditioned by "open end" provisions designed to allow reevaluation of the overall project after 20 years and to permit alterations in operating criteria and new construction during the license term.

Section 6 of the Act provides that licenses shall be issued for a period not exceeding fifty years. The Commission may, in its discretion, choose a shorter term of license. We first considered the appropriate term of years for a license issued under Section 15 of the Act in The Empire District Electric Co., Project No. 2221, 44 F.P.C. 614 (1970). There we adopted the rationale previously expressed in Southern California Edison Company, 32 F.P.C. 553, 555 (1964) that a "twenty-five year term for a new license upon expiration of the original authorization 'will give the licensee a sufficient degree of certainty to permit integration of the project into its overall plans while at the same time bringing the project before the Commission for consideration within a reasonable period.'" Subsequently, the Commission has issued licenses under Section 15 for terms other than twenty-five years.

In some instances we have synchronized the termination date of a Section 15 license with the termination date of outstanding licenses for other projects in the same river basin. We have also issued Section 15 licenses for terms of less than twenty-five years when warranted by unusual circumstances or when limited by the life expectancy of project works.

In South Carolina Electric & Gas Co. (Parr), Project No. 1894, 52 F.P.C. 537 (1974), it was determined that substantial new construction justified relicensing an existing project for a term of fifty years from expiration of the previous license. Applicant had proposed to redevelop the project by utilizing the existing conventional project as a lower reservoir for the Fairfield Pumped-Storage facility. More recently, in Wisconsin Public Service Corp., Project No. 1999, 53 F.P.C. ------ (April 2, 1975), we relicensed the project for a term of twenty-five years from expiration of the previous license and noted that in view of the age of the project works, along with the absence of plans for redevelopment of the site in the future, a fifty-year term for the license was not warranted.

Applicant stated in its letter of April 17, 1972, that a fifty-year term would be necessary in order to justify expenditures for the proposed re-regulating reservoir and other project betterments. Other than its assertion, Applicant has made no showing that a license term of fifty years would be required to make the project economically feasible. We believe that the proposed re-regulating reservoir and other project betterments have been shown to be of the magnitude necessary to qualify for a term of license in excess of twenty-five years. While the proposed construction can be categorized as "substantial," Applicant does not propose construction that can be characterized as of the same nature and degree as the Parr project, where a new 518.4 MW pumped storage facility was proposed. With this perspective, we conclude that, while a term in excess of twenty-five years would be appropriate in this instance, a term of fifty years would be excessive and unwarranted. We therefore propose to grant a license with a term of forty years from expiration of the previous license for this and other projects licensed under Section 15 of the Act where the applicant has proposed or recently completed substantial new construction, but has not redeveloped or proposed to redevelop the project. We believe that this policy would reflect the economic realities of financing new construction and would encourage applicants for new licenses to propose such construction, thus enhancing the prospects for construction of new capacity and other project facilities.

In Empire District, supra, and all other licenses issued under Section 15 of the Act, the expiration date of the previous license was used as the reference date for the new license. The stated purpose was to ensure that all applicants receive equal treatment. We also noted that "delays in relicensing could effectively protract the term of the license" if any reference date other than expiration of the previous license were adopted. We conclude, therefore, absent unusual circumstances, that the expiration date of the previous license shall be the proper reference date for all licenses issued under Section 15 of the Act. This policy comports with the rationale expressed in Androscoggin,[5] and is consistent with our previous orders issuing Section 15 licenses.

We are mindful that delays occur in the relicensing process and that the effective license term of each new license would, under the policy herein detailed, be necessarily curtailed to the extent of time required to relicense the project. In order to prevent any undue shortening of the new license term, we propose to increase the term of license as enunciated in Empire District, supra, from twenty-five years to thirty years.

In summation, it shall be our policy, absent unusual circumstances or exceptions previously noted, to issue licenses under Section 15 for terms of thirty, forty, or fifty years, as previously discussed. Such licenses shall become effective as of the first day of the month of issuance and shall terminate thirty, forty, or fifty years, respectively, from the expiration date of the previous li-

[4] Section 8.11 of the Commission's Regulations under the Act, 18 CFR § 8.11 (1975), requires licensees to file biennially for each licensed project a Form No. 80 containing information concerning the use and development of public recreational opportunities at the project.

[5] Order Issuing License, Public Service Company of New Hampshire, Project No. 2288, 27 F.P.C. 830 (1962).

cense issued under Section 4(e) of the Act. Of course, this policy should not be viewed as one to be adhered to without deviation. Factors may be presented in any given proceeding, in particular safety and adequacy considerations, which, when taken in conjunction with the policy considerations we have noted, support a different term of license. The license for Project No. 2301 shall be for a term of forty years, and shall thus terminate forty years from the expiration date of the previous license.

Finally, the Forest Service proposed provisions, hereinafter provided by Article 34, that would require Mystic Lake's level to be maintained at elevation 7,663.5 feet or above during the July 1–September 15 recreation season. Also, Forest Service recommended that a minimum streamflow release of 20 cfs be maintained in West Rosebud Creek below the re-regulation dam except (1) when natural inflow is less than 20 cfs and storage is depleted in Mystic Lake and (2) when maintenance of project facilities prevents such release. Applicant agreed to both provisions in its letter dated April 7, 1972.

Commission staff prepared a Draft Environmental Impact Statement (DEIS) on the application for license pursuant to Section 102(2) (c) of the National Environmental Policy Act of 1969 [*] and our implementing Order No. 415–C. Copies of the DEIS were sent on January 30, 1974, to various local, State, and Federal agencies, including the Council on Environmental Quality, for their comments. Following consideration and review of the comments received, the Commission staff prepared a Final Environmental Impact Statement (FEIS) incorporating and discussing the matters raised in said comments.

Substantive comments on the DEIS by the various responding agencies were mainly a reiteration of their concerns previously expressed in their comments on the license application and accompanying exhibits. The project environment has largely stabilized from the original adverse effects associated with construction of the Mystic Lake Project. Continued operation of the project is not expected to produce any additional significant negative effects. Moreover, provisions contained in the license herein should enhance the environment and partially mitigate the aquatic habitat losses brought on by project induced alterations of stream flows in West Rosebud Creek.

Construction of the re-regulating dam to impound a reservoir of 49 acres would have both adverse and beneficial impacts on the environment. Location of borrow and spoil areas which may be required by dam construction would be coordinated with and approved by the Forest Service. Adverse effects such as noise and air pollution which may result from the construction activities would be of a short-term nature and largely unavoidable. The 24 acres of wildlife habitat that would be lost by the additional flooding could be partially replaced by planting native species of food and cover plants on lands adjacent to the project reservoirs. The presence of the re-regulating dam itself would have some adverse impact on scenic values. However, provisions of the license, including Article 35, would ensure that these and other adverse effects, such as land erosion and stream siltation, would be minimized by such measures as may be needed to protect and enhance the environmental values of the project.

Resulting beneficial effects from construction of the re-regulating reservoir include (1) an increase in the dependable capacity of the project, (2) a uniform minimum stream flow of 20 cfs downstream from the re-regulating dam (except when natural inflow is less than 20 cfs or when maintenance of facilities prevents such a release), and (3) less ice formation in West Rosebud Creek and West Rosebud Reservoir, thereby enhancing the winter habitat for trout.

The continued operation of the project without continuous flow releases between Mystic Lake and the powerhouse would perpetuate an adverse environmental impact which has been associated with the project from its beginning. Provisions for mitigating the loss of aquatic habitat in this 2 mile section of Rosebud Creek have been included in this license as heretofore discussed.

Construction of the re-regulating dam and operation of the project will result in certain adverse environmental effects which are considered unavoidable. Twenty-four acres of wildlife habitat will be lost. Scenic and aesthetic values will suffer temporarily from the noise and air pollution associated with construction of the re-regulating dam. The dam itself will to some degree impact scenic values. However, with appropriate mitigation measures, as herein provided, these unavoidable adverse effects can be minimized to a point where we do not believe they will substantially affect the environment.

Alternatives to the proposed project which we have considered include: (1) denial of license, (2) takeover by the United States, and (3) issuance of a new license for the existing project with no provisions for modification or construction of the re-regulating dam. Denial of the license could lead to removal of the project works and reasonable restoration of the area to a natural condition. However, this course of action would preclude the continued beneficial use of stream flow for power generation. Takeover would not lessen the project's environmental impact. Licensing the project without permitting construction of the re-regulating reservoir would deny the enhancement of aquatic habitat, and preclude development of the effective use of the project's power potential.

Use of project lands and waters for power and other related purposes, such as recreation, are short-term benefits to be derived from the proposed project, since the project area could in the future be restored to a natural setting.

We have considered all information pertinent to the environment of Project No. 2301, including Applicant's environmental report, the Commission staff's FEIS and the comments of interested local, State, and Federal agencies reflected therein. We conclude that the adverse impact on the land and water resources of the project area resulting from continued operation and maintenance of the project, and from its present and potential recreational use, is minimal. Any adverse environmental effects associated with the continued operation and maintenance of the project or with construction of the re-regulating dam are outweighed by the resulting power and recreational benefits accruing to the public.

The issuance of this license would authorize the continued operation of a project utilizing a renewable resource capable of producing 10,000 kW and an average annual energy output of about 51.5 million kWh. This is equivalent to an annual savings of about 85,000 barrels of oil.

With regard to the transmission facilities connected to this project, we conclude that only the 6.6 kV generator leads, the 6.6/50 kV step-up transformers, and appurtenant facilities connecting them to Applicant's 50 kV interconnected system should be considered part of the project within the meaning of Section 3(11) of the Act. Applicant proposed in its application that a portion of the Mystic Lake-Columbus transmission line licensed as Project No. 1148 and a portion of the Mystic Lake-Red Lodge transmission line licensed as Project No. 553, both minor-part projects whose licenses expired in 1969, be licensed as part of Project No. 2301. However, analysis of the operation data for these lines indicates that (1) much of the power supplied to these 50 kV lines is from sources other than the Mystic Lake Project and (2) that the lines deliver power to numerous loads along their routes. We therefore conclude that both lines are part of Applicant's distribution system and not part of any project. Therefore, Applicant should obtain permits from the appropriate Federal agencies for those portions of former Project Nos. 553 and 1148 that cross United States lands.

The installed capacity of Project No. 2301 is 10,000 kW. Article 38 of the license issued herein provides that the authorized installed capacity of the project for annual charge purposes shall be 13,200 horsepower.

Exhibit J, filed as part of the application for license, is only conditionally approved herein, and Exhibit K is not approved as discussed below. Article 39 of this license requires Licensee to file, inter alia, revised Exhibits J and K for the project within six months of the completion of the re-regulating dam at West Rosebud Lake. The acreage of U.S. lands occupied by the project and the annual charges for such use will be determined hereafter when the revised Exhibit K is approved.

Exhibit J should be supplemented with a second sheet showing: (1) roads in the

[*] 42 U.S.C. 4332(2) (c).

project area, including the trail to Mystic Lake, the project tramway, the railway, and the access road to the project; (2) reservations of the United States and boundaries thereof; and (3) reference to Exhibit K indicating by outline the portion shown on each sheet.

Exhibit K should be revised to show: (1) the as-built boundary of the proposed re-regulating reservior; (2) facilities such as the 2300-volt service line for operation of the gate at the re-regulating dam, the entire railroad, and the identity of the Mystic Lake spillway; (3) official protractions of township and section lines are unsurveyed lands; (4) the elevation and area of Mystic Lake prior to construction of the dam; (5) the tie between the re-regulating reservoir boundary and the public land survey; (6) a more detailed depiction of the flowage easement areas downstream from the project; and (7) the transmission lines which are non-project facilities.

Exhibit L of the license application, described more fully in ordering paragraph (B) of this order, has been examined and found to substantially conform to the Commission's Rules and Regulations, and should be approved and made part of this license.

The Exhibit S filed by Applicant, while generally complying with the Commission's Regulations, does not propose facilities or measures for fish and wildlife enhancement and would therefore serve no useful purpose if included as part of the license. Articles 12, 15, 16, 34 and 35 among others, would adequately provide for any fish and wildlife measures which may be required during the term of the license.

The Exhibit R filed with the license application, and supplemented on October 29, 1970, adequately provides for the public recreational needs at the project, and should be approved and made part of this license. Licensee is required to report its consultation with the U.S. Forest Service and other appropriate agencies on recreational use and development at the project, during preparation of its biennial filed Licensed Projects Recreation Report, as required by § 8.11 of the Commissions' Rules and Regulations.[7] Licensee and the U.S. Forest Service entered into a Memorandum of Understanding on October 26, 1970, relative to certain aspects of Project No. 2301, including development and maintenance of project lands for public recreational purposes. We find it unnecessary, in light of the provisions contained in the license, to incorporate as part of this license the Memorandum of Understanding between the U.S. Forest Service and the Applicant.

Pursuant to Section 401(a)(1) of the Federal Water Pollution Control Act Amendments (FWPCAA) of 1972,[8] Applicant filed a Water Quality Certificate issued by the Montana Department of Health and Environmental Sciences. Copies of this certificate were transmitted on February 15, 1972, to the Regional Administrator, U.S. Environmental Protection Agency, pursuant to § 123.11 of that agency's regulation.[9]

We do not believe that Federal takeover of the project is warranted at this time. Applicant asserts that such action would result in power being transmitted out of the project area to preference customers, thereby requiring Applicant to import power to the area; would result in higher costs to its customers; and would lower local and state tax revenues. No recommendations for Federal takeover of this project have been received. By letter to the Congress dated March 11, 1968, we recommended against takeover by the United States stating that the then available facts supported the continued operation of the project by a licensee of this Commission. No additional facts which would alter this conclusion have been brought to our attention.

The Commission has determined that the project's fair value and Applicant's net investment in the project as of December 1, 1961, are $4,350,000.[10]

There are no competing applications for license on file with the Commission, nor does the project affect a Government dam. The project structures have been inspected, and have been found to be safe and adequate.

The Commission finds: (1) The Mystic Lake Project No. 2301 affects public lands of the United States.

(2) Applicant, The Montana Power Company, is a corporation organized under the laws of the State of Montana and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of the license for the project.

(3) Public notice of the filing of the application for major license was given on August 4, 1971. Intervention was granted based on a joint petition to intervene filed by Central Montana Electric Generation and Transmission Cooperative, Inc., and Mid-West Electric Consumers Association, Inc. pursuant to § 1.8(a)(2) of this Commission's Rules of Practice and Procedure.

(4) Subject to the conditions hereinafter set forth, the project is best adapted to the comprehensive development of the West Rosebud Creek Basin for the improvement and utilization of water power development, and for other beneficial public uses, including recreational uses.

(5) No conflicting application is before the Commission.

(6) The project does not affect a government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(7) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 13,300 horsepower, and the amount of annual charge based on such capacity to be paid under the license for the project for the cost of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(8) It is necessary to reserve for a later date a determination as to the amount of annual charges for the use, occupancy and enjoyment of lands of the United States.

(9) The term of the license hereinafter authorized is reasonable.

(10) The Exhibits designated and described in paragraph (B) below conform to the Commission's Rules and Regulations and should be approved to the extent indicated, as part of the license for the project.

(11) No recommendation for Federal takeover has been received, and Federal takeover of the project is not warranted.

(12) The Applicant has demonstrated satisfactory evidence that it has the necessary financial capabilities to undertake further development and operation of the project.

The Commission orders: (A) This license is hereby issued to The Montana Power Company, Butte, Montana, under Section 15 of the Federal Power Act, effective the first day of the month in which the license is issued and expiring December 31, 2009, for the construction, operation and maintenance of the Mystic Lake Project No. 2301 located on West Rosebud Creek in Stillwater County, Montana, affecting lands of the United States in Custer National Forest subject to the terms and conditions of the Act which is incorporated herein by reference as part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) The Mystic Lake Project No. 2301 consists of:

(1) All lands constituting the project area and enclosed by the project boundary or the Licensee's interests in such lands, the limits of which are otherwise defined, the use and occupancy of which are necessary for the purposes of the project; such project area and project boundary being shown and described by certain exhibits which form part of the application for license and which are designated and described as follows:

EXHIBIT J (FPC No. 2301-24) GENERAL MAP OF PROJECT AREA

(ii) Project works consisting of: (1) a 145-foot long, 15-foot high earth dike with concrete core; (2) a 368-foot long, 45-foot high concrete arch dam with a 300-foot overflow spillway controlled by flashboards; (3) a 446-acre storage reservoir having a usable capacity of 21,000 acre-feet between its maximum and minimum elevations of 7,673.5 feet and 7,612 feet (USGS datum); (4) a conduit from the reservoir to the powerhouse consisting of a 1005-foot long tunnel, a 9,012-foot-long wood-stave pipeline, a surge tank and a 2,690-foot-long steel penstock; (5) a powerhouse containing two generating units each rated at 5,000 kW; (6) a 19-foot-high, 410-foot-long earth fill dam at the outlet of West

[7] 18 C.F.R. 8.11 (1975).
[8] 33 U.S.C. 1341(a)(1).
[9] 40 C.F.R. 123.11 (1975).
[10] Order Determining Fair Value and Waiving Certain Commission Regulations, Montana Power Company, Project No. 2301, December 9, 1974.

Rosebud Lake forming a 49-acre re-regulating reservoir about one mile downstream from the powerhouse with normal elevation at 6397.4 feet (USGS datum); and (7) appurtenant facilities—the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also form part of the application for license and which are designated and described as follows:

Exhibit L	FPC No. 2301-	Showing
Sheet 1	31	Dams (as constructed).
2	32	Details of flashboard structure.
3	33	General plan of intake.
4	34	Surge tank.
5	35	Floor plan of powerhouse.
6	36	Cross section of powerhouse.
7	37	Regulating reservoir dam—West Rosebud Lake.

Exhibit M: "General Description of Equipment" consisting of one typed page, filed December 23, 1969, except that the second paragraph describing the Mystic-Columbus and Mystic-Red Lodge transmission lines be omitted.

Exhibit R: Pages 11, 12, 14, 15, 16 and 17 of the Exhibit R text and a drawing entitled "Recreational Use Plan Map" (FPC No. 2301-39).

(iii) All of the structures, fixtures, equipment, or facilities used or useful in the maintenance and operation of the project and located on the project area, and such other property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; together with all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the terms and conditions set forth in Form L-2 (Revised October 1975) entitled "Terms and Conditions of License for Unconstructed Major Project Affecting Lands of the United States," which terms and conditions designated as Articles 1 through 32 are attached hereto and made a part hereof, and subject to the following special conditions which are set forth as additional articles:

Article 33. Pursuant to Section 10(d) of the Act, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus earnings, if any, accumulated under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the weighted cost components of long-term debt, preferred stock, and the cost of common equity, as defined herein. The weighted cost components for each element of the reasonable rate of return is the product of its capital ratios and cost rate. The current capital ratios for each of the above elements of the rate of return shall be calculated annually based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 34. Pending further order by the Commission on its own motion or at the request of others, after notice and opportunity for hearing, the Licensee shall:

(a) Until a permanent schedule of minimum flows is established as provided for in (b) below, the Licensee shall provide for a 10 cfs minimum flow of water during June, July, and August, and a 2 cfs minimum flow during the remainder of the year, as measured at the weir located in the West Rosebud Creek channel immediately upstream of the powerhouse;

(b) Consult and cooperate with the Montana Fish and Game Department and the U.S. Fish and Wildlife Service of the Department of the Interior in making studies for the purpose of recommending a schedule of minimum flows in West Rosebud Creek between the project dam and the powerhouses to protect and enhance the fishery resource of West Rosebud Creek. Within two (2) years of issuance of this order, the Licensee shall file with the Commission the results of such studies. If the studies show a need to modify the minimum flows specified in (a) above, Licensee shall file for Commission approval the minimum flows proposed;

(c) Maintain a minimum water surface elevation of 7,663.5 feet, (USGS datum) from July 1 to September 15 each year.

(d) Provide for a minimum flow release of 20 cfs downstream from the West Rosebud Creek re-regulating dam except when natural inflow is less than 20 cfs or when maintenance of facilities prevents such a release.

Article 35. Licensee shall consult with the U.S. Forest Service and the Montana Fish and Game Department and take such measures as may be needed during the construction of the re-regulating dam and during the operation of the project to protect and enhance the environmental values of the project area, throughout the period of the license, including but not limited to selection of areas and methods of clearing, excavation, borrow, spoil disposal, and of leveling, revegetation, and selective or screen plantings; maintenance and utilization of administrative buildings, railway, and tramway consistent with the scenic values, optimum use of outdoor recreation values, and operation and maintenance of the project; location and construction of roads; and sewage and solid waste disposal methods.

Article 36. The Licensee shall, prior to the commencement of construction, consult with the Montana State Historic Preservation Officer and the National Park Service to determine the extent of any archeological survey or salvage that may be necessary within the project boundary and the proper mitigation of project impacts on any sites that may be discovered during archeological surveys or construction activities: Provided, that Licensee shall make a reasonable effort and provide reasonable funds for the protection or salvage of archeological sites, as required; Provided further, that reports of surveys and salvage excavations shall be forwarded to the State Historic Preservation Officer, the Federal Power Commission, and the Director, Midwest Region, National Park Service; Provided further, that, in the event the Licensee and the Montana State Historic Preservation Officer cannot reach agreement on the amount of money to be expended on archeological work at the project, the Commission reserves the right, after notice and opportunity for hearing, to require Licensee to conduct such preconstruction archeological survey and salvage operations at the project as it may find necessary.

Article 37. In the interest of preserving and promoting the environment of the project area, Licensee shall consult and cooperate with interested local, State and Federal environmental protection agencies, and the Commission reserves the right, after notice and opportunity for hearing, to require such changes in the project and its operation as may be necessary to preserve and promote the environmental values of the project.

Article 38. The Licensee shall pay the United States the following annual charges, effective as of the first day of the month in which the license is issued:

(a) For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purposes is 13,300 horsepower.

(b) For the purpose of recompensing the United States for the use, occupancy and enjoyment of its lands, an amount to be established at a future date, upon Commission approval of the revised Exhibit K to be filed pursuant to Article 39 or such amount as may be determined from time to time pursuant to the Commission's regulations.

Article 39. Licensee shall file, in accordance with the Commission's rules and regulations, revised Exhibits F, J, K, and M for the project within six months of the completion of the re-regulating dam at West Rosebud Lake.

Article 40. Licensee shall commence construction of the West Rosebud Lake Re-regulating Dam within eighteen months from the date of issuance of the license and shall thereafter in good faith and with due diligence prosecute and complete such construction of project works within three years from the date of issuance of the license.

(D) The Exhibits designated and described in paragraph (B) above are hereby aproved to the extent indicated and made a part of this license.

(E) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in Section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. It shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

TERMS AND CONDITIONS OF LICENSE FOR UNCONSTRUCTED MAJOR PROJECT AFFECTING LANDS OF UNITED STATES

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided*, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project works shall be constructed in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Upon the completion of the project, or at such other time as the Commission may direct, the Licensee shall submit to the Commission for approval revised exhibits insofar as necessary to show any divergence from or variations in the project area and project boundary as finally located or in the project works as actually constructed when compared with the area and boundary shown and the works described in the license or in the exhibits approved by the Commission, together with a statement in writing setting forth the reasons which in the opinion of the Licensee necessitated or justified variation in or divergence from the approved exhibits. Such revised exhibits shall, if and when approved by the Commission, be made a part of the license under the provisions of Article 2 hereof.

Article 4. The construction, operation, and maintenance of the project and any work incidental to additions or alterations shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of the project and for any subsequent alterations to the project. Construction of the project works or any feature or alteration thereof shall not be initiated until the program of inspection for the project works or any such feature thereof has been approved by said representative. The Licensee shall also furnish to said representative such further information as he may require concerning the construction, operation, and maintenance of the project, and of any alteration thereof, and shall notify him of the date upon which work will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the

project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: *Provided,* That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall consult with the appropriate State and Federal agencies and, within one year of the date of issuance of this license, shall submit for Commission approval a plan for clearing the reservoir area. Further, the Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. Upon approval of the clearing plan all clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. Timber on lands of the United States cut, used, or destroyed in the construction and maintenance of the project works, or in the clearing of said lands, shall be paid for, and the resulting slash and debris disposed of, in accordance with the requirements of the agency of the United States having jurisdiction over said lands. Payment for merchantable timber shall be at current stumpage rates, and payment for young growth timber below merchantable size shall be at current damage appraisal values. However, the agency of the United States having jurisdiction may sell or dispose of the merchantable timber to other than the Licensee: *Provided,* That timber so sold or disposed of shall be cut and removed from the area prior to, or without undue interference with, clearing operations of the Licensee and in coordination with the Licensee's project construction schedules. Such sale or disposal to others shall not relieve the Licensee of responsibility for the clearing and disposal of all slash and debris from project lands.

Article 22. The Licensee shall do everything reasonably within its power, and shall require its employees, contractors, and employees of contractors to do everything reasonably within their power, both independently and upon the request of officers of the agency concerned, to prevent, to make advance preparations for suppression of, and to suppress fires on the lands to be occupied or used under the license. The Licensee shall be liable for and shall pay the costs incurred by the United States in suppressing fires caused from the construction, operation, or maintenance of the project works or of the works appurtenant or accessory thereto under the license.

Article 23. The Licensee shall interpose no objection to, and shall in no way prevent, the use by the agency of the United States having jurisdiction over the lands of the United States affected, or by persons or corporations occupying lands of the United States under permit, of water for fire suppression from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license, or the use by said parties of water for sanitary and domestic purposes from any stream, conduit, or body of water, natural or artificial, used by the Licensee in the operation of the project works covered by the license.

Article 24. The Licensee shall be liable for injury to, or destruction of, any buildings, bridges, roads, trails, lands, or other property of the United States occasioned by the construction, maintenance, or operation of the project works or of the works appurtenant or accessory thereto under the license. Arrangements to meet such liability, either by compensation for such injury or destruction, or by reconstruction or repair of damaged property, or otherwise, shall be made with the appropriate department or agency of the United States.

Article 25. The Licensee shall allow any agency of the United States, without charge, to construct or permit to be constructed on, through, and across those project lands which are lands of the United States such conduits, chutes, ditches, railroads, roads, trails, telephone and power lines, and other routes or means of transportation and communication as are not inconsistent with the enjoyment of said lands by the Licensee for the purposes of the license. This license shall not be construed as conferring upon the Licensee any right of use, occupancy, or enjoyment of the lands of the United States other than for the construction, operation, and maintenance of the project as stated in the license.

Article 26. In the construction and maintenance of the project, the location and standards of roads and trails on lands of the the United States and other uses of lands of the United States, including the location and condition of quarries, borrow pits, and spoil disposal areas, shall be subject to the approval of the department or agency of the United States having supervision over the lands involved.

Article 27. The Licensee shall make provision, or shall bear the reasonable cost, as determined by the agency of the United States affected, of making provision for avoiding inductive interference between any project transmission line or other project facility constructed, operated, or maintained under the license, and any radio installation, telephone line, or other communication facility installed or constructed before or after construction of such project transmission line or other project facility and owned, operated, or used by such agency of the United States in administering the lands under its jurisdiction.

Article 28. The Licensee shall make use of the Commission's guidelines and other recognized guidelines for treatment of transmission line rights-of-way, and shall clear such portions of transmission line rights-of-way across lands of the United States as are designated by the officer of the United States in charge of the lands; shall keep the areas so designated clear of new growth, all refuse, and inflammable material to the satisfaction of such officer; shall trim all branches of trees in contact with or liable to contact the transmission lines; shall cut and remove all dead or leaning trees which might fall in contact with the transmission lines; and shall take such other precautions against fire as may be required by such officer. No fires for the burning of waste material shall be set except with the prior written consent of the officer of the United States in charge of the lands as to time and place.

Article 29. The Licensee shall cooperate with the United States in the disposal by the United States, under the Act of July 31, 1947, 61 Stat. 681, as amended (30 U.S.C. sec. 601, *et seq.*), of mineral and vegetative materials from lands of the United States occupied by the project or any part thereof: *Provided,* That such disposal has been authorized by the Commission and that it does not unreasonably interfere with the occupancy of such lands by the Licensee for the purposes of the license: *Provided further,* That in the event of disagreement, any question of unreasonable interference shall be determined by the Commission after notice and opportunity for hearing.

Article 30. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of non-power facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 31. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 32. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

[FR Doc.76-30345 Filed 10-15-76;8:45 am]

[Docket Nos. RP71-125, RP75-103 (PGA76-8)]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Order Granting Rehearing and Modifying Order

OCTOBER 8, 1976.

On September 9, 1976, Natural Gas Pipeline Company of America (Natural) filed an Application for Reconsideration or Rehearing of the Commission order issued August 31, 1976, in the above-referenced dockets, which accepted for filing and suspended for one day a proposed PGA rate adjustment. For the reasons set forth herein, the Commission shall grant Natural's petition and shall modify its order of August 31, 1976.

On July 16, 1976, Natural tendered for filing a 2.3¢ per Mcf PGA rate increase[1] to track increased purchased gas costs of $19,700,000 and a revised surcharge of 4.90¢ per Mcf[2] to amortize the balance in the deferred purchased gas account. The proposed effective date of the increase was September 1, 1976.

In its order issued August 31, 1976, the Commission concluded that the rates filed by Natural were based in part on 60-day emergency purchases in excess of the rate level prescribed in Opinion No. 770 and in part on a purchase from an alleged non-jurisdictional pipeline, Kansas Power and Light Company. Accordingly, the Commission accepted the proposed tariff sheets for filing, suspended their effectiveness for one day until September 2, 1976, when they would become effective subject to refund, and ordered appropriate procedural steps.

In its Application for Reconsideration and Rehearing Natural has submitted additional and clarifying facts concerning the nature of its proposed PGA rate increase. Natural states that none of the emergency purchases reflected in its July 16 filing were made at prices above the Opinion No. 770 rate ceiling. Natural states that one emergency gas purchase contract with Oklahoma Natural Gas Company, dated February 13, 1976, was made at $1.45 per MMBtu, but did not provide for a tax reimbursement to be made to the seller, If the same sale had been made at the Opinion No. 770 base rate together with the appropriate tax adjustment, Natural would have paid $1.53 per MMBtu. Thus, Natural states, it purchased the emergency gas in question at a price below that provided for in Opinion No. 770.

In addition, Natural submits that its rates as filed on July 16 do not reflect any costs associated with non-jurisdictional purchases. Natural states that the purchase from Kansas Power and Light Company was not included in the calculation of the average cost of purchased gas in Natural's filing, since no volumes were purchased after December 27, 1975. The only entry in the Deferred Purchased Gas Cost Account relating to this purchase during the period March through May 1976 was for a refund received in the amount of $103,841, which was credited to the Account during April 1976.

In view of the foregoing, Natural requests that the Commission grant rehearing to allow its revised tariff sheets to become effective September 1, 1976, as previously requested, without suspension and refund obligation.

Our review of Natural's submittal of September 9, 1976, as well as the entire record in this proceeding, indicates that the rates reflected in its July 16 filing do not reflect costs associated with a non-jurisdictional purchase or emergency purchases at prices in excess of the Opinion No. 770 ceiling rate. Accordingly, we shall amend our August 31, 1976, order to permit the tariff sheets filed on July 16, 1976, to become effective September 1, 1976, without suspension or refund obligation.

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[1] Substitute Twenty-Ninth Revised Sheet No. 5 and Substitute Fourth Revised Sheet No. 5A to FPC Gas Tariff, Third Revised Volume No. 1.

[2] The previous surcharge was 3.57¢ per Mcf.

The Commission finds. Good cause exists to grant rehearing of the Commission's August 31, 1976, order and to accept Natural's revised tariff sheets (filed July 16, 1976) for filing effective September 1, 1976, without suspension or refund obligation.

The Commission orders. (A) Rehearing of the Commission's August 31, 1976, order is hereby granted, and Natural's revised tariff sheets (filed July 16, 1976) are accepted for filing effective September 1, 1976, without refund obligation, and Paragraphs A, B and C of the Commission's order of August 31, 1976, are so modified.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30359 Filed 10-15-76;8:45 am]

[Docket Nos. RP71-125 and RP75-108 (PGA 76-8)]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Purchased Gas Cost Adjustment to Rates and Charges

OCTOBER 8, 1976.

Take notice that on September 20, 1976 Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets, to be effective September 1, 1976:

Second Substitute Twenty-ninth Revised Sheet No. 5
Second Substitute Fourth Revised Sheet No. 5A

Natural states that it filed a PGA unit adjustment on July 16, 1976, to be effective September 1, 1976, which the Commission by order issued August 31, 1976, accepted for filing, but suspended the effective date until September 2, 1976, when it would become effective subject to refund. Ordering Paragraph (B) of said order authorized Natural to file a revised PGA unit adjustment to become effective September 1, 1976 which would reflect the elimination of (a) that portion of 60-day emergency purchases in excess of the rate level prescribed in Opinion No. 770 and (b) those costs associated with non-jurisdictional purchases.

Natural also states that on September 9, 1976, it filed an Application for Reconsideration or Rehearing in which it stated that its rates as filed on July 16 did not reflect any 60-day emergency purchases at prices in excess of Opinion No. 770 after adjustment for production tax reimbursement as provided for in that Opinion, and that further, the only cost associated with the non-jurisdictional purchase was, in fact, a refund which was credited to the Deferred Purchased Gas Cost Account which had the effect of reducing the level of the PGA unit adjustment filed for.

Therefore, pursuant to Ordering Paragraph (B) and taking into consideration the facts relative to emergency and non-jurisdictional purchases as set out in Natural's Application for Reconsideration or Rehearing, Natural requested that the Commission accept the PGA unit adjustment as set out on the filed tariff sheets to be effective September 1, 1976, without any refund obligation. The PGA unit adjustment as filed reflects the level ordinarily filed on July 16, 1976, Natural also revised Sheet No. 5A to reflect the rate level for Rate Schedules MS-3 and LS-1 which have previously been accepted by the Commission to be effective on May 21, 1976 by letter order issued August 24, 1976 (Docket No. CP76-325) and July 1, 1976 by letter order issued August 18, 1976 (Docket No. CP75-256) respectively.

Natural states that it does not believe any waivers of the Commission's Regulations are necessary but respectfully requested the Commission to grant such waivers as it may deem necessary to accept the filed tariff sheets to be effective September 1, 1976.

Copies of this filing were mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30378 Filed 10-15-76;8:45 am]

[Docket No. ER76-168]

NEW ENGLAND POWER CO.

Compliance Filing

OCTOBER 8, 1976.

Take notice that on September 29, 1976, New England Power Company (NEP) tendered for filing copies of the following amendments to NEP's FPC Electric Tariff Original Volume Number 1:

Schedule II-CD, Original Page Nos. 1-x and 2-x
Schedule III-CD, First Revised Page Nos. 1 through 5
Schedule III-CD, Original Page Nos. 6 through 11

According to NEP, these amendments are submitted for filing in compliance with ordering Paragraph D of the Commission's order of August 30, 1976, approving a Settlement Agreement in this proceeding, which relates to NEP's contract demand or "CD" service. NEP states that CD service commenced for certain of NEP's customers on November 1, 1975. In order to effectuate the Settlement Agreement as approved by the Commission, NEP requests that the tariff sheets be accepted for effectiveness as of November 1, 1975.

NEP states that copies of the tariff pages have been mailed to all affected customers and to all persons appearing on the service list in Docket Nos. ER76-153 and E-9136, et al.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure. All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30369 Filed 10-15-76;8:45 am]

[Docket No. RP76-157]

NORTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 8, 1976.

Take notice that Northern Natural Gas Company (Northern) on September 30, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Volume No. 4. The proposed changes would increase revenues from jurisdictional sales and service by $76,475 based on the twelve (12) month period ending May 31, 1976, as adjusted.

Northern states that the primary reasons for filing this increase are to recover the increased costs of operations and provide sufficient revenues to enable it to earn a fair and reasonable rate of return on its utility investment.

Copies of the filing were served upon the Company's jurisdictional customers and the New Mexico and Oklahoma Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before October 26, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30360 Filed 10-15-76;8:45 am]

[Project No. 233]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Annual License(s)

OCTOBER 7, 1976.

On October 28, 1970, Pacific Gas and Electric Company, Licensee for Pit Nos. 3, 4, and 5 Project No. 233, located on Pit River in Shasta County, California, filed an application for a new license under section 15 of the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 233 was issued effective October 23, 1923, for a period ending October 22, 1973. Since the original date of expiration, the project has been under annual licenses, the most recent of which will expire on October 22, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to the Pacific Gas and Electric Company.

Take notice that an annual license is issued to the Pacific Gas and Electric Company under the Federal Power Act for the period October 23, 1976, to October 22, 1977, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Project No. 233, subject to the terms and conditions of its present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before October 22, 1977, a new annual license will be issued each year thereafter, effective October 23 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30350 Filed 10-15-76;8:45 am]

[Docket No. RP73-36 (PGA76-3 and DCA76-2)]

PANHANDLE EASTERN PIPE LINE CO.

Tender of Emergency Purchases Information

OCTOBER 7, 1976.

Take notice that on August 31, 1976, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing information requested by the Commission's order issued July 30, 1976, in the above-captioned docket, ordering paragraph (E), with respect to the compliance with the criteria of Opinion No. 699-B of certain 60 day emergency purchases.

Any person wishing to do so may submit comments in writing concerning Panhandle's tender. All such comments should be submitted to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 3, 1976. Panhandle's information is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30354 Filed 10-15-76;8:45 am]

[Project No. 309]

PENNSYLVANIA ELECTRIC CO.

Issuance of Annual License(s)

OCTOBER 7, 1976.

On March 2, 1970, Pennsylvania Electric Company, Licensee for Piney Project No. 309, located on the Clarion River, Clarion County, Pennsylvania, filed an application for a new license under the Federal Power Act and the Commission Regulations thereunder.

The license for Project No. 309 was issued effective October 13, 1922, for a period ending October 12, 1972. Since the original date of expiration, the project has been under annual licenses, the most recent of which will expire on October 12, 1976. In order to authorize the continued operation and maintenance of the project pursuant to the Federal Power Act, pending Commission action on the Licensee's application, it is appropriate and in the public interest to issue an annual license to the Pennsylvania Electric Company.

Take notice that an annual license is issued to Pennsylvania Electric Company under the Federal Power Act for the period October 13, 1976, to October 12, 1977, or until issuance of a new license for the project, or until Federal takeover, whichever comes first, for the continued operation and maintenance of the Project No. 309, subject to the terms and conditions of its present license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before October 12, 1977, a new annual license will be issued each year thereafter, effective October 13 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30348 Filed 10-15-76;8:45 am]

[Docket No. RP76-103]

PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.

Order Setting Question for Briefs and Providing for Additional Notice Period

OCTOBER 5, 1976.

On May 24, 1976, Public Service Company of North Carolina, Inc. (Public Service) filed a petition for a declaratory order determining that the Commission is without jurisdiction to require abandonment prior to the transportation in interstate commerce of royalty gas taken in-kind by the State of Texas (Texas).

Superior Oil Company (Superior) presently makes a jurisdictional sale to Natural Gas Pipe Line Company of America (Natural) from two leases in the High Island Area, Offshore State of Texas. On January 10, 1974, the Commissioner of the General Land Office on behalf of the State of Texas, together with Superior, and Natural, agreed to amend the existing pooling agreement covering the subject property to add an additional lease to the agreement and to permit Texas, after proper notice, to take its royalty share of gas in-kind.

Superior applied to amend its certificate on August 2, 1974 requesting the addition of the new lease to the dedicated acreage and noting the royalty in-kind provision. On February 11, 1975, the Commission issued an order amending Superior's certificate and accepting for filing the amendment to add acreage as Supplement No. 3 to Superior's Rate Schedule No. 150. Ordering Paragraph (C) of that order stated that the grant of the certificate was subject to the requirements of section 7, and that it does not imply approval of all the terms of the contract, especially as they may relate to the cessation of service.

On April 25, 1975, the State of Texas wrote to the Commission giving notice of its intention to take the royalty share in-kind and sell the gas on its own. Texas asserted that it is not subject to the Commission's jurisdiction and does not require a certificate for its action. On June 13, 1975, the Secretary, by direction of the Commission, informed Texas that the February 11, 1975 order did not authorize Superior to divert dedicated gas from the interstate market without abandonment authorization.

On May 1, 1975 Public Service entered into a contract with the "State of Texas, acting by and through the School Land Board of Texas, an agency of the State of Texas," for the sale of the royalty gas. This agreement calls for the sale of approximately 1,100,000 Mcf per year at a rate of $1.44 per Mcf.

The subject of the instant proceeding is the petition of Public Service for a declaratory order that the Commission has no authority to require Texas to seek abandonment authorization of the reserves to be sold by it to Public Service pursuant to their May 1, 1975 contract. Public Service is presently supplied by Transcontinental Gas Pipe Line Company (Transco) but Transco will not transport the Texas gas sale without a Commission ruling that abandonment is not necessary.

Notice of the Public Service petition was issued on June 2, 1976, and appeared in the FEDERAL REGISTER on June 9, 1976 at 41 FR 23248. Petitions to intervene have been filed by American Public Gas Association (APGA), Natural, Tennessee Gas Pipeline Company (Tennessee), and United Gas Pipe Line Company (United). Notices of intervention were filed by the States of Alaska and Louisiana, the Public Service Commission of

the State of New York (NYPSC), and the Energy Resources Board of the State of New Mexico and The Commissioner of Public Lands of the State of New Mexico (New Mexico).[1]

Public Service argues that the Commission has no jurisdiction over the State of Texas or its agent and cannot, therefor, require Texas to obtain abandonment authorization prior to making the sale to Public Service. According to the contract, the seller is listed in one place as the "Commissioner of the General Land Office and Chairman of the School Land Board" and in another place as the "State of Texas, acting by and through the School Land Board of Texas, an agency of the State of Texas."

The jurisdiction of the Commission is limited to the regulation of a "natural gas company," which is defined in section 2(6) of the Natural Gas Act,[2] as a "person" engaged in certain activities. A "person", in turn, is defined in subsection (1) as an individual or corporation. Individual is undefined. A corporation is defined in subsection (2) as:

> any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.

Subsection (3) states that a municipality "means a city, or other political subdivision or agency of a State."

A state is defined in subsection (4) as a "State admitted to the Union, the District of Columbia, and any organized Territory of the United States."

This is a case of first impression for the Commission. The petition of Public Service sets out a fundamental question of jurisdiction that should be explored fully before the Commission renders its final decision in this matter. Therefore, since there are no apparent questions of fact, the Commission will require initial and reply briefs be submitted directly to the Commission on the following issues:

(1) Within the meaning of section 2 of the Natural Gas Act, is there any legally applicable difference between a State of the United States and an agency of a State?

(2) Is a State of the United States subject to the jurisdiction of the Commission under the Natural Gas Act?

(3) If a State is a jurisdictional entity, does that automatically make any agency of the State jurisdictional, or is it a separate question then whether the agency is jurisdictional?

(4) If a State is not jurisdictional, can an agency of the State be jurisdictional?

(5) If the Commission has no jurisdiction over a State or an agency of the State, can the Commission then require the present producer of the States' or state agency's royalty share to obtain abandonment authorization pursuant to section 7(b) of the Natural Gas Act prior to the State or its agency selling the subject gas in interstate commerce?

We request that the briefs on these issues answer the questions both in the context of the specific factual situation presented in the Public Service petition and generally with reference to State and state agency distinctions, if any. The issues posed and any collateral matters raised by these questions should be fully and completely explored in the briefs.

We especially invite the comments of all interested persons, whether or not a petition to intervene or notice of intervention has been filed as yet in this proceeding. Because of the importance of the jurisdictional question posed, we will provide an additional period of ten days from the date of issuance of this order for other interested persons to file a petition for intervention or notice to intervene. Persons filing during this period will be required to file copies of the petition or the notice on all parties. The Commission will act on these petitions or notices prior to the date for filing the initial briefs.

The Commission finds: (1) It is in the public interest that this matter be set for the submission directly to the Commission of briefs on the legal issues posed herein, said briefs can be filed by any party to this proceeding or any other interested person.

(2) Good cause exists to grant the petitions and notices of intervention of APGA, Natural, Tennessee, United, Alaska, Louisiana, NYPSC and New Mexico.

(3) It is in the public interest to provide an additional ten day period in which interested persons may file a petition to intervene or a notice of intervention in order to participate in this proceeding.

The Commission orders: (A) Initial briefs on the legal issue posed herein, and any regulated legal questions, should be filed on or before November 5, 1976, with replies thereto to be filed on or before November 30, 1976.

(B) APGA, Natural, Tennessee, United, Alaska, Louisana, NYPSC, and New Mexico are permitted to intervene in this proceeding for relief subject to the rules and regulations of the Commission: *Provided however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions for leave to intervene: *And provided further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in these proceedings, and that the intervenors agree to accept the record as it now stands.

(C) Any person desiring to be heard or to protest the Public Service filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and all other parties to the proceeding, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed within ten days of the issuance of this order. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the Public Service filing are on file with the Commission and are available for public inspection.

By the Commission.

LOUIS D. CASHELL,
Acting Secretary.

[FR Doc.76-30347 Filed 10-15-76;8:45 am]

[Docket No. ID-1639]

RALPH H. SMITH

Application

OCTOBER 8, 1976.

Take notice that on September 28, 1976, Ralph H. Smith (Applicant), filed an application with the Federal Power Commission. Pursuant to section 305(b) of the Federal Power Act, Applicant seeks authority to hold the following positions:

Assistant Comptroller, Delmarva Power & Light Company, Public Utility.
Vice President, Delmarva Power & Light Company of Maryland, Public Utility.
Vice President, Delmarva Power & Light Company of Virginia, Public Utility.

Delmarva Power & Light Company is principally engaged in the generation, transmission and distribution of electrical energy throughout the State of Delaware. Owns and operates transmission lines, interconnecting with similar facilities of Delmarva Power & Light Company of Maryland, Philadelphia Electric Company, Atlantic City Electric Company and Conowingo Power Company. Also owns and operates plants and properties for the manufacture and distribution of gas within New Castle County, Delaware.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1976, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 76-30377 Filed 10-15-76;8:45 am]

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[1] APGA, NYPSC and The Energy Resources Board of the State of New Mexico and The Commissioner of Public Lands of the State of New Mexico did not file in a timely manner but their respective petitions and notices will be permitted as in the public interest.

[2] 15 U.S.C. 717a(1963).

[Project No. 2416]

RIEGEL TEXTILE CORP.

Ware Shoals Plant Project

OCTOBER 6, 1976.

In the matter of order issuing major license.

The Riegel Textile Corporation (Riegel) filed on October 2, 1963, and supplemented on April 3, 1964, August 3, 1964, October 19, 1970, and December 3, 1970, an application for a major license for its constructed Ware Shoals Plant Project No. 2416, located on the Saluda River in Greenwood, Laurens, and Abbeville Counties, South Carolina. Applicant is a corporation organized under the laws of the State of Delaware, having its office and principal place of business in New York, New York, and is authorized to do business in the State of South Carolina.

The project works consists of a 545-foot-long stone rubble gravity dam including a taintor gate bay; a reservoir about 6,000 feet long covering 88 acres at full pool elevation 508 feet above mean sea level; a stone rubble intake structure; a power canal 2,700 feet long, 86 feet wide, and 16 feet deep; four penstocks seven feet in diameter and 345 feet long (one of which has not been in use since two of the four original horizontal generating units were replaced in 1939 with one larger vertical unit); two steel surge tanks; a powerhouse consisting of two adjoining structures containing a total of three generating units operating under a head of about 58 feet and a total generating capacity of 5,000 kW; a 2,300 volt bus and a 2.3 kV transmission line connecting the hydro plant to the Ware Shoals 7,000 kW steam plant; and appurtenant facilities.

The project was constructed by the Ware Shoals Manufacturing Company and placed in operation in 1906. Its function was to provide water for industrial and public use, including production of power, in the community of Ware Shoals. Ownership of the project has remained with the Ware Shoals Manufacturing Company and its successor company, Riegel Textile Corporation. The demand for power outgrew the facility, and since 1951 additional power has been supplied by the Duke Power Company. Power generated at Project No. 2416 is now used exclusively in Riegel's textile mill operations.

The addition of a 15 by 18.5 foot taintor gate at the dam was begun in 1936. In 1939, construction for the addition of a vertical Smith-Kaplan 3,480-HP turbine, now designated unit No. 1, was started. During this construction the old No. 1 and No. 2 units were removed, and all units were renumbered.

Reports have been received from interested Federal and State agencies concerning this license application. None objected to the issuance of a license for the Ware Shoals Plant Project.

By letter dated June 18, 1964, the U.S. Department of the Army, Corps of Engineers, stated that the plans of the structures affecting navigation were satisfactory, and that insertion in the license of special terms and conditions in the interest of navigation was not considered necessary.

The U.S. Department of the Interior, by letter dated September 18, 1964, stated that in the event a license were to be granted for Project No. 2416, the terms of the license should not prevent the redevelopment of this section of the Saluda River at some later date. However, neither the Corps of Engineers Review Report in Senate Document No. 189, 78th Congress (1944), nor the more recent National Power Survey studies by the Commission's Atlanta Regional Office (ARO) have revealed any suitable sites for proposed developments. The ARO study of the Saluda River, conducted in 1964, was part of the nationwide effort to survey undeveloped head on certain rivers. The study found that there was undeveloped head on the Saluda system, but that the locations of towns and industries made it impractical to consider hydroelectric development of this limited potential.

The Fish and Wildlife Service reported that in view of the absence of a significant population of migrating fish in the area below the project, fish passage facilities at the dam are not required at this time. They requested that "standard" articles relating to fish and wildlife be included in the license, in response to the need for conserving and developing these resources to meet the anticipated increased demand for fishing and hunting as beneficial public recreation.

The letter of August 28, 1964, from the U.S. Department of Health, Education, and Welfare, stated that there are no known adverse effects on water supply, water pollution control, or vector control attributable to this project, and none are anticipated.

By letter dated August 2, 1974, the South Carolina Department of Archives and History stated that there are no sites on, or eligible for, the National Register of Historic Places in the vicinity of the project. The Department stated that ruins of an 18th century grist mill are situated on the west banks of the Saluda River, but that in its opinion, this site is not eligible for the Register. In view of the fact that Project No. 2416 has operated since 1906, it does not appear that licensing would have any effect on this site.

Applicant filed Exhibits J, K, L, M, and R as part of its application. Exhibits J, K, and L, designated and described in ordering paragraph (B) of this order, have been examined and found to conform substantially to the Commission's Rules and Regulations. The Exhibit M does not include all necessary transmission facilities, as required by § 4.41 of the Commission's Regulations (18 C.F.R. 4.41(1976)). Therefore, the filing of a revised Exhibit M is required by the terms of the license issued herein.

The Applicant's Exhibit R is also inadequate, and it is therefore inappropriate to approve it as part of a license for Project No. 2416. Recreational use at the project has been declining in recent years, attributable to better water-based recreational opportunities and facilities at other nearby reservoirs.[1] Although the filing of a revised Exhibit R will not be required at this time, Articles 16, 17, 18, and 25 of the license will provide for future recreational needs at the project.

Public notice of the application for license for Project No. 2416 was issued with August 7, 1964, as the last date for the filing of protests or petitions to intervene. None have been received by the Commission.

The South Carolina Pollution Control Authority, by letter to the Applicant dated October 13, 1970, certified that there will be no contravention of state water quality standards for the Saluda River due to the operation of Project No. 2416. This was transmitted to the Atlanta Regional Office of the Environmental Protection Agency on October 1, 1974.

We believe that issuance of a license for Project No. 2416 would not be a major Federal action significantly affecting the quality of the human environment. The project dam has been constructed and in operation for approximately 70 years. The reservoir and surrounding areas have undergone stabilization since the original construction, and no new construction is proposed. Under the circumstances, approval of the application for license does not require preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 and Commission Order No. 415–C.

The installed capacity of the project is 5,000 kilowatts. For annual charge purposes, this capacity is converted to horsepower by multiplying by 4/3. Article 27 of the license provides that the authorized installed capacity of the project for annual charge purposes shall be 6,670 horsepower. No lands of the United States are included within the boundary of Project No. 2416.

The license herein granted shall have an effective date of May 1, 1965, the first day of the month in which the Supreme Court of the United States affirmed the Commission's findings and order asserting license authority over Taum Sauk Project No. 2277. *FPC* v. *Union Electric Co.*, 381 U.S. 90 (1965). The termination date will be twenty-five years from the first day of the month in which this order is issued. This is in accordance with the principles enunciated in the Commission's Order issued September 24, 1976, in Pacific Power and Light Co., Project No. 2652, ------ F.P.C. ------ (1976).

The Commission finds: (1) Ware Shoals Plant Project No. 2416 is part of an interconnected system which transmits power across State lines for public utility purposes.

(2) The Applicant, Riegel Textile Corporation, is a corporation organized under the laws of the State of Delaware, authorized to do business in the State of

[1] The large Clark Hill and Hartwell Reservoirs are in the vicinity of the project, as is Greenwood Lake. Each of these is a popular water-based recreational facility.

South Carolina, and has submitted satisfactory evidence of compliance with the requirements of applicable State laws insofar as necessary to effectuate the purposes of the license for the project.

(3) Public notice of the filing of the application was given. No protests or petitions to intervene were received.

(4) No conflicting application is before the Commission.

(5) The project does not affect a Government dam, nor will the issuance of a license therefore, as hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(6) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing a waterway for the use or benefit of interstate or foreign commerce, for the improvement and utilization of waterpower development, and for other beneficial public uses, including recreational purposes.

(7) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 6,670 horsepower, and the amount of annual charge based on such capacity to be paid under the license for the project for the cost of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(8) There are no lands of the United States included in the project area.

(9) The plans of the structures affecting navigation have been approved by the U.S. Army Corps of Engineers.

(10) The term of the license hereinafter authorized is reasonable.

(11) The following described transmission facilities which are included in the application for license are parts of the project within the meaning of Section 3(11) of the Act and should be included in the license for the project: a 2,300 volt bus and a 2.3 kV transmission line connecting the hydroelectric powerhouse to the 7,000 kW steam plant at Ware Shoals, and appurtenant facilities.

(12) The Exhibits designated and described in Paragraph (B) below conform to the Commission's Rules and Regulations and should be approved as part of the license for the project.

(13) It is in the public interest to issue a license for the continued operation of the Ware Shoals Plant Project No. 2416, subject to the terms and conditions set forth hereinafter.

(14) Approval of this application does not require preparation of an environmental impact statement under the National Environmental Policy Act of 1969 and Commission Order No. 415–C.

The Commission orders: (A) This license is hereby issued to Riegel Textile Corporation (Licensee) of New York, New York, under Section 4(e) of the Federal Power Act for a period effective May 1, 1965, and terminating 25 years from the first day of the month in which this license is issued for the continued operation and maintenance of constructed Project No. 2416. Ware Shoals Project No. 2416 is located on the Saluda River, in Greenwood, Laurens, and Abbeville Counties, South Carolina. This license is issued subject to the terms and conditions of the Act, which is incorporated herein by reference as a part of this license, and is subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) The Ware Shoals Plant Project No. 2416 consists of:

(i) All lands constituting the project area and enclosed by the project boundary or the licensee's interests in such lands, the limits of which are otherwise defined, the use and occupancy of which are necessary for the purposes of the project; such project area and project boundary being shown and described by certain exhibits which form part of the application for license which are designated and described as follows:

Exhibit	FPC No.	Showing
J	2416-1	General area map.
K	2416-3	General plan and project boundary.

(ii) project works consisting of: (1) a stone rubble gravity dam 545 feet long including a traintor gate bay 15 feet wide at the west abutement and about 490 feet of overflow section topped by 4.5 feet of flashboards; (2) a reservoir about 6,000 feet long covering 88 acres at full pool elevation 503 feet above mean sea level; (3) a stone rubble intake structure with wing walls and five lift gates; (4) a power canal in earth excavation 2,700 feet long, 86 feet wide and 16 feet deep; (5) four penstocks 7 feet in diameter and 345 feet long (one not in use); (6) two steel surge tanks, one 20 feet in diameter by 59 feet high, and the other 4 feet in diameter by 50 feet high; (7) a powerhouse consisting of an older stone structure 44' by 30' by 40' high and a newer reinforced concrete and brick structure 25' by 35' by 90' high containing three generating units operating under a head of about 53 feet and a total generating capacity of 5,000 mW; (8) a 2,300 volt bus and a 2.3 kV transmission line from the hydro plant connecting to the Ware Shoals 7,000 kW steam plant; and (9) appurtenant facilities—the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain, other exhibits which also form part of the application for license and which are designated and described as follows:

Exhibit L

FPC No.:	*Showing*
2416-4	Sections of dam, taintor gate and gate valves.
2416-5	Sections of canal and penstocks.
2416-6	Powerhouse.

(iii) all of the structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the conditions set forth in Form L–10 (Revised October 1975) entitled "Terms and Conditions of License for Constructed Major Project Affecting the Interests of Interstate or Foreign Commerce," which terms and conditions, designated as Articles 1 through 23, are attached hereto and made a part hereof, and subject to the following special conditions set forth herein as additional articles:

Article 24. The Licensee, in the interests of promoting optimum recreational use and protecting the scenic values of project lands and waters, may to a reasonable extent grant permits to individuals or groups of individuals for landscape plantings on project lands, or for the construction of access roads, wharves, landings, and other similar facilities, the occupancy of which may, under appropriate circumstances, be subject to the payment of rent in a reasonable amount: *Provided,* That the Licensee, in granting such permits, shall require that permittees provide for multiple occupancy and use of such facilities, where feasible, and shall ensure that such facilities are constructed with shoreline, aesthetic values; *Provided further,* That the Licensee's consent to the construction of access roads, wharves, landing, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities, which are in addition to the facilities that the Licensee may construct and maintain as required by the license.

Article 25. The Licensee shall, to the satisfaction of the Commission's authorized representative, install and operate such signs, lights, sirens or other devices below the powerhouse to warn the public of fluctuations in flow from the project, and shall install such signs, lights and other safety devices above the powerhouse intakes, as may be reasonably needed to protect the public in its recreational use of project lands and waters.

Article 26. The Licensee shall pay the United States the following annual charge, effective May 1, 1965:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purpose is 6,670 horsepower.

Article 27. Licensee shall within one year of the date of issuance of this license submit for Commission approval a revised Exhibit M, prepared in accordance with the Commission's Rules and Regulations, to include the transmission facilities designated and described in finding Paragraph (11) above.

Article 28. Pursuant to Section 10(d) of the Act, after the first 20 years of operation of the project under license, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus

earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization reserve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the weighted cost components of long-term debt, preferred stock, and the cost of common equity, as defined herein. The weighted cost components for each element of the reasonable rate of return is the product of its capital ratios and cost rate. The current capital ratios for each of the above elements of the rate of return shall be calculated annually based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 29. Licensee shall file with the Commission an emergency action plan designated to provide an early warning to downstream inhabitants and property owners if there should be an impending or actual sudden release of water caused by an accident to, or failure of, project structures. Such plan, to be submitted within one year of the date of issuance of the license, shall include, but not be limited to, instructions to be provided on a continuing basis to operators and attendants for actions they are to take in the event of an emergency; detailed and documented plans for notifying law enforcement agents, appropriate Federal, State and local agencies, operators of downstream water-related facilities, and those residents and owners of properties endangered; actions that would be taken to reduce the inflow to the reservoir, if such is possible, by limiting the outflow from upstream dams or control structures; and actions to reduce downstream flows by controlling the outflow from dams located on tributaries to the stream on which the project is located. Licensee shall also submit a summary of the study used as a basis for determining the areas that may be affected by such an emergency occurrence, including criteria and assumptions used.

(D) The Exhibits designated and described in Paragraph (B) above are hereby approved to the extent indicated and made a part of this license.

(E) The Licensee shall, within 90 days from the date of acceptance of this license, file in accordance with the provisions of § 11.20(a) (4) of the Commission's Regulations a statement under oath showing the gross amount of power generation for the project in kilowatt-hours for each calendar year commencing May 1, 1965.

(F) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in section 313(a) of the Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgement of the acceptance of this license it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED MAJOR PROJECT AFFECTING INTERESTS OF INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided, however,* That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised; or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify; and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands of property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns

shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: *Provided*, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, Character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of another licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: *Provided*, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the au-

thorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 22. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 23. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

[FR Doc.76-30344 Filed 10-15-76;8:45 am]

[Docket Nos. R-393, RM76-5]

TENNESSEE GAS PIPELINE CO.

Small Producer Regulation; Order Granting Application for Reconsideration for Purposes of Further Consideration

OCTOBER 8, 1976.

On September 9, 1976, Tennessee Gas Pipeline Company (Tennessee) filed an application for rehearing and reconsideration of Opinion No. 742-A and Order No. 553, both issued on July 27, 1976. Since Tennessee's application for rehearing was untimely filed, it is being treated solely as an application for reconsideration.

The Commission finds: In order to afford the Commission the opportunity to consider fully the issues raised by the above-referenced application, it is appropriate and proper in the administration of the Natural Gas Act to grant reconsideration of Opinion No. 742-A and Order No. 553 for the purpose of further consideration.

The Commission orders: The application for reconsideration filed by Tennessee is granted for the purpose of further consideration.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-30342 Filed 10-15-76; 8:45 am]

[Docket No. RP74-41 (AP 76-2)]

TEXAS EASTERN TRANSMISSION CORP.

Proposed Changes in FPC Gas Tariff

OCTOBER 7, 1976.

Take notice that Texas Eastern Transmission Corporation on September 30, 1976 tendered for filing proposed changes in its FPC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets:

Twenty-fourth Revised Sheet No. 14
Twenty-fourth Revised Sheet No. 14A
Twenty-fourth Revised Sheet No. 14B
Twenty-fourth Revised Sheet No. 14C
Twenty-fourth Revised Sheet No. 14D

Texas Eastern states that it is reducing its rates due to repayment of advance payments for gas pursuant to Article V of the Stipulation and Agreement under Docket No. RP74-41. The above tariff sheets are proposed to become effective on November 1, 1976.

Texas Eastern states that copies of the filing were served on the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30351 Filed 10-15-76;8:45 am]

[Docket No. AR64-2, etc.; RP73-35]

TRUNKLINE GAS CO.

Proposed Plan for Flow Through of Refunds

OCTOBER 8, 1976.

Take notice that Trunkline Gas Company (Trunkline) on September 22, 1976 submitted its plan for flow through of refund amounts received from producers as a result of F.P.C. Opinion and Order Nos. 595 and 595-A issued in Docket No. AR64-2, et al., such plan submitted pursuant to the Commission's Order issued February 23, 1976 Directing Disbursement and Flow Through of Refunds in the above referenced docket.

Copies of this plan were served on each jurisdictional customer and upon the appropriate state regulatory agencies.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30381 Filed 10-15-76;8:45 am]

[Project No. 2401]

UTAH POWER & LIGHT CO.

Grace-Cove Project

OCTOBER 6, 1976.

In the matter of order issuing major license for constructed project and denying request for disclaimer of jurisdiction.

Utah Power & Light Company (Applicant) of Salt Lake City, Utah, filed on August 30, 1963, and supplemented June 18, 1968, January 27, 1969, December 10, 1971, and April 20, and December 4, 1972, an application for major license for, or alternatively a disclaimer of jurisdiction over, the constructed Grace-Cove Project No. 2401 located on the Bear River in Caribou County, Idaho. The project consists of two diversion dams, a reservoir containing 250 acre-feet of storage, and three powerhouses with a total installed capacity of 51,500-kW.

The project is composed of two developments. The Grace development, containing two 5,500-kW generating units was constructed in 1908 by a predecessor of the Applicant. Utah Power & Light Company purchased the plant in 1912. In 1914 the Applicant built an additional powerhouse with two 11,000-kW units, and added a third 11,000-kW unit in 1923. The flume was replaced between 1937 and 1952, and in 1950 a new dam was constructed immediately downstream of the original one.

The Cove development was constructed by the Applicant in 1927. The powerhouse contains a single 7,500-kW generating unit. Since the initial construction, the flume and spillway have been repaired (1949-50) and a substation has been built (1955). The license application does not request authorization for any modifications of the existing project.

Public notice of the license application was issued October 18, 1963, 28 FR 11463, with December 9, 1963, given as the last day for filing protests or peti-

tions to intervene. No protests or petitions to intervene were received.

JURISDICTION

Applicant, in Exhibit P of its application, questions whether the Grace-Cove Project must be licensed under the Federal Power Act. Applicant attests that its application was filed in response to our decision in Public Service Company of New Hampshire, (Androscoggin),[1] wherein we established the policy of backdating licenses for projects dilatory in seeking Commission authorization. However, Applicant believes that there is uncertainty in the application of Androscoggin to the Grace-Cove Project. Applicant argues that the fact that jurisdiction in Androscoggin was based upon navigability of the river on which the project was located distinguishes it from Grace-Cove where it contends that the associated river is non-navigable.

We do not find it necessary to reach the questions raised by the Applicant regarding the navigability of the entire Bear River, or the applicability of the Androscoggin case to non-navigable waters. Jurisdiction over Project No. 2401 may be found through the Supreme Court's determination in *FPC* v. *Union Electric Co.* (Taum Sauk)[2], where the Court concluded that Section 23(b) of the Act[3] gives the Commission licensing authority over a water power project which utilizes the headwater of a navigable river to generate eneregy for an interstate power system. Grace-Cove is such a project.

The Bear River, at a point downstream from the project, has historically been used for navigational purposes. Between 1871 and 1873 a stern-wheel steam boat was used along the lower stretch of the Bear River to transport freight, ore, and passengers from the railroad junction city of Corinne, at approximately river mile 15, to Salt Lake City via the Great Salt Lake and the Jordan River.[4] Such evidence requires a finding that the Bear River downstream from the Grace-Cove Project was a navigable waterway of the United States. It is irrelevant that diversion of the upstream water for irrigation has rendered the river no longer suitable for navigation. The Supreme Court has determined that if a river was navigable at an earlier period of time, it is unimportant that actual navigation has now been abandoned.[5] The Commission may find a river navigable "* * * if (1) It presently is being used or is suitable for use, or (2) it has been used or was suitable for use in the past; or (3) it could be made suitable for use in the future by reasonable improvements."[6]

[1] 27 FPC 830 (1962).
[2] 381 U.S. 90 (1965).
[3] Federal Power Act Section 23(b), 16 U.S.C. 817(b).
[4] D. E. Miller, Great Salt Lake Past and Present, 13 (1949); Box Elder Chapter-Sons of Utah Pioneers, Box Elder Lore (Sept. 1951).
[5] *U.S.* v. *Appalachian Power Co.*, 311 U.S. 377 (1940).
[6] *Rochester Gas and Electric Corp.* v. *Federal Power Commission*, 344 F. 2d 594, 598 (2d Cir. 1965).

Having determined that Grace-Cove utilizes waters which become navigable at a point below the project, jurisdiction may be based on Taum Sauk if it can be shown that the project generates energy for an interstate power system. The Grace and Cove plants are connected to Utah Power & Light's 46-kV and 161-kV interconnected transmission facilities. These transmission facilities interconnect with Applicant's generating stations in Idaho, Utah, and Wyoming, and interconnect at the Utah-Arizona state line with the Bureau of Reclamation's Colorado River Storage Project. The system also interconnects with the Montana Power Company at the Idaho-Montana state line through a 161-kV line leased by Utah Power & Light from Idaho Power Company. Power flows in both directions across each of these state lines. The interstate transmission of electric energy and a project which generates energy for such transmission affects commerce among the states.[7] The analogy to Taum Sauk is complete.

Despite the application of Taum Sauk to the instant proceeding, the question of licensing jurisdiction remains somewhat clouded as application of § 23(b) has been held nonretroactive from its 1935 enactment date. In *Farmington River Power Company* v. *FPC*,[8] the Second Circuit found that a project which "was constructed in 1925 and remains essentially unchanged today", did not fall within the jurisdictional ambit of Section 23(b), which was added to the Act after the project was built.[9] Nevertheless in our recent decision in Puget Sound Power and Light Company,[10] we distinguished Farmington and concluded that licensing jurisdiction did exist where substantial post-1935 construction on a project had occurred. In the instant proceeding, the facts are similar to those in Puget. Although initial construction on both the Grace and Cove plants was completed long before 1935, a new dam was constructed at the Grace facility in 1950. The new dam's construction did not constitute repair or maintenance, thereby leaving the project "essentially unchanged", but was a significant addition, thus bringing the project within our jurisdiction.

COMMENTS ON THE APPLICATION

By letters dated October 16, 1963, the then Acting Secretary of the Commission requested comments on the application from appropriate Federal and State agencies pursuant to section 4(e) of the Act.[11] Comments received and responses to those comments are as follows:

CONSERVATION AND ENHANCEMENT OF FISH & WILDLIFE RESOURCES

The State of Idaho Fish and Game Department (Department) reported (December 9, 1963) that the project at present offers little or no enhancement of wildlife resources. The Department recommended two special license articles to provide for any future development of potential fish, wildlife, and recreational resources associated with the project. One proposed article would require the Applicant to construct and maintain those fish and wildlife conservation facilities deemed necessary by either the Commission, the Secretary of the Interior, or the Idaho Fish and Game Department; the other would require Applicant to permit the United States or the State of Idaho to use project lands to a reasonable extent free of charge for the development or improvement of facilities and to make whatever project modifications are necessary to accommodate Federal or State conservation developments. Articles 16 and 17 of this license provide for the Department's recommendations.

The Department of the Interior, (Interior) in a letter received March 25, 1964, recommended that conditions relating to fish and wildlife resources be included in any license issued. These recommendations are similarly met by the inclusion of Articles 16 and 17 of this license.

Further protection of fish and wildlife resources is afforded by Article 27, which requires Applicant to file an Exhibit S within one year of the issuance date of the license. Although Order No. 323, which requires the preparation of an Exhibit S, was issued after the license application for Project No. 2401 was filed, a substantial period of time has elapsed since that filing and 25 years will elapse before a new license containing a fish and wildlife plan will be issued. In addition, the Department's aforementioned report concluded that little activity geared toward fish and wildlife enhancement had occurred within the project boundaries. For these reasons, we determine through Article 27 of the proposed license that an Exhibit S must be filed.

RECREATION

The Applicant has not advanced a plan for furture recreational development nor a statement of the agencies consulted during the preparation of its Exhibit R. Applicant concluded that only the small ponds behind the diversion dam could offer any possible recreational use, and that these ponds are subject to such violent water level fluctuations that they are of little value. Therefore, as there is limited potential for recreational development at the project and many bodies of water and streams in the area are available for fishing, boating, and other recreational uses, it is not necessary for Applicant to file a revised Exhibit R at this time.

WATER USE

The March 25, 1964, letter from Interior recommended the inclusion of a special article that would subordinate Applicant's water rights for power purposes to irrigation uses. Interior noted the ever-present importance of irriga-

[7] Taum Sauk, at 94.
[8] 455 F. 2d 86 (2d Cir. 1972).
[9] Id. at 89-90.
[10] Order Establishing Jurisdiction, Project No. 2495, issued July 31, 1975, ____ F.P.C. ____ (1975), appeal docketed, No. 75-3523, 9th Cir., Nov. 17, 1975.
[11] 16 U.S.C. 797(e).

tion to the area affected by the Grace-Cove facility and concluded that a stipulated subordination of water use for power purposes would assure the needed economic development of the Bear River Basin.

Applicant opposed such an article by letter filed June 9, 1964. It averred that during the previous 30 years there had been no water releases from Bear Lake solely for the generation of power. Applicant further argued that water has consistently been conserved for irrigation, with power being generated by its downstream Bear River plants only when irrigation demands required water releases.

We are not including the article proposed by Interior. Special Article 25, included herein, precludes the use of the license as the basis of damage claims if water is diverted for irrigation or other beneficial consumptive uses.

The Corps of Engineers reported (February 11, 1964) that insertion in the license of special terms and conditions in the interest of navigation were not considered necessary and that plans for the structures affecting navigation were satisfactory. The Department of Health, Education, and Welfare, by report received January 23, 1964, concluded that this project would have no adverse effect on water supply, water quality, or vector control.

ENVIRONMENTAL CONSIDERATIONS

Applicant filed an Environmental Report as a supplement to its application on April 20, 1972. Comments on Applicant's Report were received from Interior, Forest Service, Corps of Engineers, Department of Health, Education, and Welfare, Idaho Water Resources Board, and the City of Grace, Idaho, with no objections to issuance of the license. Following a thorough review of Applicant's Report and agency comments thereon we conclude that the issuance of a license by the Commission for Project No. 2401 does not constitute a major Federal action significantly affecting the quality of the human environment. The license does not authorize any new construction or change in project operation. Thus, the preparation of an environmental impact statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 [12] and our implementing Order No. 415-C is not required.

Interior, in its environmental comments concerning Project No. 2401, recommended the investigation of possible historic places within the project boundary and an archeological survey of project lands. The National Register of Historic Places has been reviewed through June 5, 1975, and no historic structures or sites are listed for the project area. As no new construction is being authorized by the issuance of this license, no further study of a historic or archeological nature is required. Nevertheless, should Applicant ever seek Commission approval for subsequent project construction it very well may be required to conduct the surveys and studies outlined by Interior.

TRANSMISSION FACILITIES

With regard to the transmission facilities connected with this project, we conclude that the following transmission facilities are subject to any license issued for Project No. 2401: (a) the 6.6-kV generator leads of Grace units 3, 4 and 5 to the 138-kV step-up transformer; (b) the 2.4-kV generator leads of Grace units 1 and 2, the 2.4/46-kV step-up transformer and a short section of 46-kV transmission line to the outdoor substation; (c) the 6.6-kV generator leads to the Cove outdoor substation and the 6.6/46-kV step-up transformer; (d) 1.6 miles of dual 46-kV line between the Cove and Grace plants; (e) the 6.6/138-kV transformer at the Grace plant; and (f) appurtenant facilities at both developments.

Exhibit M of the application lists the 2.4/46-kV and 6.6/138-kV transformers at the Grace plant and the 6.6/46-kV transformers at the Cove plant as being part of the project. In a letter dated April 21, 1967, the Applicant expressed no objection to including the 46-kV transmission lines from the Cove plant to the Grace plant. The Applicant overlooked the generator leads and the short 46-kV line when compiling Exhibit M; these are considered appurtenant facilities and are included as such in the project description with the previously mentioned facilities. Additionally, special Article 26 requires the inclusion of both 46-kV lines and the generator leads in Applicant's filing of revised Exhibits F, K, and M.

COMPUTATION OF ANNUAL CHARGES

The installed capacity of the project is 51,500 kilowatts. For annual charge purposes this capacity is converted to 68,700 horsepower by multiplying the kilowatts by 4/3. Special Article 24 provides for the annual charges for the project.

EXHIBITS

Exhibits J and L have been examined and found to substantially conform to the Commission's Rules and Regulations, and should be approved and made part of this license. Exhibits F, K, and M have been examined and found to generally conform to the Commission's Regulations; however, they do not include as part of the project all the aforementioned transmission facilities. Therefore, these exhibits are approved and made a part of the license only to the extent that they show the general location and nature of the project.

There are no conflicting applications for a preliminary permit or a license before the Commission. The project does not affect a government dam. Under the circumstances, the license for Project No. 2401 under the terms and conditions hereinafter provided best fulfills the standards of Section 10(a) of the Federal Power Act,[13] Section 10(a) requires that the approved project shall:

> be best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreation purposes * * *

We conclude on the basis of the facts before us that a major license should be issued to Applicant effective May 1, 1965, the first day of the month in which *Taum Sauk* was decided, and terminating 25 years from the first day of the month in which this license is issued. This is in accordance with the principles enunciated in the Commission's Order issued September 24, 1976, in Pacific Power and Light Co., Project No. 2652, ____ F.P.C. ____ (1976).

The Commission finds: (1) The Bear River is a navigable waterway of the United States from at least the City of Corinne, approximately at river mile fifteen to its mouth.

(2) The Grace-Cove Project No. 2401, is located on the Bear River.

(3) The Grace-Cove Project No. 2401, as constituted under this license, generates electric energy for an interstate system and has undergone major post-1935 construction.

(4) The Applicant, Utah Power & Light Company, is a corporation incorporated under the laws of the State of Maine and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of a license for the project.

(5) Public notice of the application was given. No protests or petitions to intervene were received by the Commission.

(6) No conflicting application is before the Commission.

(7) The project does not affect a government dam, nor will the issuance of a license, subject to the conditions hereinafter provided, affect the development of any water resources for public purposes which should be undertaken by the United States.

(8) Subject to the terms and conditions hereinafter imposed, the project is best adapted to a comprehensive plan for improving or developing a waterway or waterways for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, including recreational purposes.

(9) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 68,700 horsepower, and the amount of annual charge based on such capacity to be paid to the United States under the license for the project for the cost of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

[12] 42 U.S.C. 4332(2)(C).

[13] 16 U.S.C. 803(a).

(10) Exhibits J and L as designated and described in paragraph (B) below conform to the Commission's Rules and Regulations and should be approved and made a part of the license for the project.

(11) Exhibits K and M as designated and described in paragraph (B) below should be approved only to the extent that they show the general location and nature of the project.

(12) The plans for the structures affecting navigation have been approved by the Corps of Engineers.

(13) This action does not require the preparation of an environmental impact statement.

(14) The term of the license hereinafter authorized is reasonable.

The Commission orders: A. This license is hereby issued to Utah Power & Light Company of Salt Lake City, Utah, under Section 4(e) of the Federal Power Act, for a period effective May 1, 1965, and terminating 25 years from the first day of the month in which this license is issued, for the continued operation and maintenance of the Grace-Cove Project No. 2401, located on the Bear River in Caribou County, Idaho, subject to the terms and conditions of the Act, which is incorporated herein by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

B. The Grace-Cove Project No. 2401 consists of:

(i) All lands constituting the project area and enclosed by the project boundary or the Licensee's interests in such lands, the limits of which are otherwise defined, the use and occupancy of which are necessary for the purposes of the project; such project area and project boundary being shown and described by certain exhibits which form part of the application for license and which are designated and described as follows:

Exhibit	FPC No.	Showing
J	2401-1	General map of project area.
K-1	2401-17	Grace-Cove project.
K-2	2401-18	Do.
K-3	2401-19	Do.

(ii) project works consisting of:

Grace Development—(1) a timber crib, rock-filled dam, 180.5 feet long and 51 feet high, with 120 feet of spillway controlled by flashboards and about 200 feet of earth dike; (2) a reservoir of 250 acre-feet storage at elevation 5,556; (3) 2 conduits of wood stave and riveted steel pipe about 4.8 miles long; (4) a powerhouse containing two horizontal turbines each driving a generator rated at 5,500-kW; (5) a powerhouse containing three vertical turbines each driving an 11,000-kW generator; (6) the 2.4/46-kV step-up substation; (7) the 6.6/138-kV step-up substation;

Cove Development—(8) a reinforced concrete dam 140 feet long and 24 feet high and 150 feet of earth dike; (9) a conduit consisting of a concrete-lined canal and open box wood flume; (10) a steel penstock 528 feet long; (11) a powerhouse containing one vertical turbine driving a 7,500-kW generator; (12) the 6.6/46-kV step-up substation; (13) two 46-kV transmission lines between the Grace and Cove stations; and (14) appurtenant facilities—the location, nature and character of which are more specifically shown and described by the exhibits hereinbefore cited and by certain other exhibits which also form part of the application for license and which are designated and described as follows:

Exhibit L	FPC No.	Showing
1 (Grace)	2401-4	Plan and elevation of Grace Dam.
2 (Grace)	2401-5	Plan and sections of Grace intakes.
3 (Grace)	2401-6	Elevations and sections of Grace intake houses.
4 (Grace)	2401-7	Plan, sections and elevations of Grace surge tanks.
5 (Grace)	2401-8	Plan of Grace powerhouse.
6 (Grace)	2401-9	Elevations and sections of Grace powerhouse.
1 (Cove)	2401-10	Sections and elevations of Cove powerhouse.
2 (Cove)	2401-11	Plans and sections of Cove powerhouse.
3 (Cove)	2401-12	Sections of Cove lower spillway, Penstock intake and flume.
4 (Cove)	2401-13	General plan and sections of Cove headworks.
5 (Cove)	2401-14	Plan and sections of Cove intake and details of screens and lifting yoke.
6 (Cove)	2401-15	Plan, elevation, and sections of Cove Dam.

Exhibit M: Consisting of two typewritten pages entitled, "General Description of Mechanical, Electrical and Transmission Equipment" filed with the Commission August 30, 1963.

(iii) all of the structures, fixtures, equipment or facilities used or useful in the maintenance and operation of the project and located on the project area, including such portable property as may be used or useful in connection with the project or any part thereof, whether located on or off the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; also, all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the terms and conditions set forth in Form L-10 (revised October 1975) which terms and conditions, designated as Articles 1 through 23, are attached hereto and made a part hereof and subject to the following special conditions set forth herein as additional articles.

Article 24. The Licensee shall pay the United States the following annual charge:

For the purpose of reimbursing the United States for the cost of administration of Part I of the Act, a reasonable annual charge as determined by the Commission in accordance with the provisions of its regulations, in effect from time to time. The authorized installed capacity for such purposes is 68,700 horsepower.

Article 25. This license shall not be construed as affecting in any way any claim the Licensee may have concerning its water rights acquired pursuant to State Law. Those rights, not this license, shall govern any claim the Licensee may advance against the United States for any damages resulting from any future depletion in the flow of the waters of the Bear River and its tributaries for the irrigation of lands or other beneficial consumptive uses.

Article 26. The Licensee shall file, in accordance with the Commission's Rules and Regulations, revised Exhibits F, K, and M, within one year after issuance of this license to show and describe the existing 46-kV transmission line between the Grace and Cove plants; the 6.6-kV generator leads of Grace units 3, 4 and 5 to the 138-kV step-up transformer, the 2.4-kV generator leads of Grace units 1 and 2, the 6.6-kV generator leads to the Cove outdoor substation, and a short section of 46-kV transmission line to the outdoor substation as a part of the project facilities.

Article 27. Licensee shall, within one year following issuance of this license, file for Commission approval an Exhibit S prepared in accordance with the requirements of Section 4.41 of the Commission's Regulations under the Federal Power Act.

Article 28. The Licensee, in the interests of promoting optimum recreational use and protecting the scenic values of project lands and waters, may to a reasonable extent grant permits to individuals or groups of individuals for landscape plantings on projects lands, or for the construction of access roads, wharves, landings, and other similar facilities, the occupancy of which may, under appropriate circumstances, be subject to the payment of rent in a reasonable amount: *Provided,* That the Licensee, in granting such permits, shall require that permittees provide for multiple occupancy and use of such facilities, where feasible, and shall ensure that such facilities are constructed and maintained in such manner as to be consistent with shoreline aesthetic values; *Provided further,* That the Licensee's consent to the construction of access roads, wharves, landings, and other facilities shall not, without its express agreement, place upon the Licensee any obligation to construct or maintain such facilities, which are in addition to the facilities that the Licensee may construct and maintain as required by the license.

Article 29. Pursuant to Section 10(d) of the Act, after the first 20 years of operation of the project under license, a specified reasonable rate of return upon the net investment in the project shall be used for determining surplus earnings of the project for the establishment and maintenance of amortization reserves. One half of the project surplus earnings, if any, accumulated after the first 20 years of operation under the license, in excess of the specified rate of return per annum on the net investment, shall be set aside in a project amortization reserve account as of the end of each fiscal year: Provided, that, if and to the extent that there is a deficiency of project earnings below the specified rate of return per annum for any fiscal year or years after the first 20 years of operation under the license, the amount of such deficiency shall be deducted from the amount of any surplus earnings accumulated thereafter until absorbed, and one-half of the remaining surplus earnings, if any, thus cumulatively computed, shall be set aside in the project amortization reserve account; and the amounts thus established in the project amortization re-

serve account shall be maintained until further order of the Commission.

The annual specified reasonable rate of return shall be the sum of the weighted cost components of long-term debt, preferred stock, and the cost of common equity, as defined herein. The weighted cost components for each element of the reasonable rate of return is the product of its capital ratios and cost rate. The current capital ratios for each of the above elements of the rate of return shall be calculated annually based on an average of 13 monthly balances of amounts properly includable in the Licensee's long-term debt and proprietary capital accounts as listed in the Commission's Uniform System of Accounts. The cost rates for such ratios shall be the weighted average cost of long-term debt and preferred stock for the year, and the cost of common equity shall be the interest rate on 10-year government bonds (reported as the Treasury Department's 10 year constant maturity series) computed on the monthly average for the year in question plus four percentage points (400 basis points).

Article 30. Material may be dredged or excavated from, or placed as fill in, project lands and/or waters only in the prosecution of work specifically authorized under the license; in the maintenance of the project; or after obtaining Commission approval, as appropriate. Any such material shall be removed and/or deposited in such manner as to reasonably preserve the environmental values of the project and so as not to interfere with traffic on land or water.

Article 31. Licensee shall file with the Commission an emergency action plan designated to provide an early warning to downstream inhabitants and property owners if there should be an impending or actual sudden release of water caused by an accident to, or failure of, project structures. Such plan to be submitted within one year of the date of issuance of the license, shall include, but not be limited to, instructions to be provided on a continuing basis to operators and attendants for actions they are to take in the event of an emergency; detailed and documented plans for notifying law enforcement agents, appropriate Federal, State and local agencies, operators of downstream water-related facilities, and those residents and owners of properties endangered; actions that would be taken to reduce the inflow to the reservoir, if such is possible, by limiting the outflow from upstream dams or control structures; and actions to reduce downstream flows by controlling the outflow from dams located on tributaries to the stream on which the project is located. Licensee shall also submit a summary of the study used as a basis for determining the areas that may be affected by such an emergency occurrence, including criteria and assumptions used.

(D) Licensee shall, within 90 days from the date of acceptance of this license, file in accordance with the provisions of § 11.20(a)(4) of the regulations a statement under oath showing the gross amount of kilowatt-hours generated by the project for each calendar year commencing with the effective date of the license.

(E) This order shall become final within 30 days from the date of its issuance unless application for rehearing shall be filed as provided in section 313 (a) of the Act, and failure to file such an application shall constitute acceptance of the license for Project No. 2401. In acknowledgement of its acceptance of the license, it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED MAJOR PROJECT AFFECTING THE INTERESTS OF INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: Provided, however, That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. In the event the project is taken over by the United States upon the termination of the license as provided in Section 14 of the Federal Power Act, or is transferred to a new licensee or to a non-power licensee under the provisions of Section 15 of said Act, the Licensee, its successors and assigns shall be responsible for, and shall make good any defect of title to, or of right of occupancy and use in, any of such project property that is necessary or appropriate or valuable and serviceable in the maintenance and operation of the project, and shall pay and discharge, or shall assume responsibility for payment and discharge of, all liens or encumbrances upon the project or project property created by the Licensee or created or incurred after the issuance of the license: Provided, That the provisions of this article are not intended to require the Licensee, for the purpose of transferring the project to the United States

or to a new licensee, to acquire any different title to, or right of occupancy and use in, any of such project property than was necessary to acquire for its own purposes as the Licensee.

Article 7. The actual legitimate original cost of the project, and of any addition thereto or betterment thereof, shall be determined by the Commission in accordance with the Federal Power Act and the Commission's Rules and Regulations thereunder.

Article 8. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds estimated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 9. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 10. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 11. Whenever the Licensee is directly benefited by the construction work of an other licensee, a permittee, or the United States on a storage reservoir or other headwater improvement, the Licensee shall reimburse the owner of the headwater improvement for such part of the annual charges for interest, maintenance, and depreciation thereof as the Commission shall determine to be equitable, and shall pay to the United States the cost of making such determination as fixed by the Commission. For benefits provided by a storage reservoir or other headwater improvement of the United States, the Licensee shall pay to the Commission the amounts for which it is billed from time to time for such headwater benefits and for the cost of making the determinations pursuant to the then current regulations of the Commission under the Federal Power Act.

Article 12. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 13. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 14. In the construction or maintenance of the project works, the Licensee shall place and maintain suitable structures and devices to reduce to a reasonable degree the liability of contact between its transmission lines and telegraph, telephone and other signal wires or power transmission lines constructed prior to its transmission lines and not owned by the Licensee, and shall also place and maintain suitable structures and devices to reduce to a reasonable degree the liability of any structures or wires falling or obstructing traffic or endangering life. None of the provisions of this article are intended to relieve the Licensee from any responsibility or requirement which may be imposed by any other lawful authority for avoiding or eliminating inductive interference.

Article 15. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part thereof is located, after notice and opportunity for hearing.

Article 16. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 17. The Licensee shall construct, maintain, and operate, or shall arrange for the construction, maintenance, and operation of such reasonable recreational facilities, including modifications thereto, such as access roads, wharves, launching ramps, beaches, picnic and camping areas, sanitary facilities, and utilities, giving consideration to the needs of the physically handicapped, and shall comply with such reasonable modifications of the project, as may be prescribed hereafter by the Commission during the term of this license upon its own motion or upon the recommendation of the Secretary of the Interior or other interested Federal or State agencies, after notice and opportunity for hearing.

Article 18. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting: *Provided*, That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 19. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 20. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 21. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent

of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative, as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 22. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or a annual license under the terms and conditions of this license.

Article 23. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth herein.

[FR Doc.76-30346 Filed 10-15-76;8:45 am]

[Docket No. ER76-919]

VERMONT ELECTRIC POWER CO.

Filing of Purchase Agreement

OCTOBER 8, 1976.

Take notice that on September 24, 1976, the Vermont Electric Company (VELCO) tendered for filing a Purchase Agreement for the sale of five thousand kilowatts (5,000 KW) and related energy from the Vermont Yankee Nuclear Electric Generating Unit in Vernon, Vermont, to the City of Taunton, Massachusetts, by VELCO, dated as of December 30, 1975. VELCO states that service under this Agreement is to begin October 31, 1976 and is to terminate October 31, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 20, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30357 Filed 10-15-76;8:45 am]

[Docket No. ER76-92]

WESTERN POWER DIVISION CENTRAL TELEPHONE & UTILITIES CORP.

Filing of Revised Rate Schedules

OCTOBER 8, 1976.

Take notice that on September 8, 1976, Western Power Division, Central Telephone & Utilities Corporation (CTU) tendered for filing revised rate schedules reflecting reduced rates from those originally proposed, based on the elimination from rate base of construction work in progress. The instant filing was tendered pursuant to: (1) Ordering paragraph (B) of the Commission's order of February 20, 1976; (2) the deficiency letter issued by the Secretary of the Commission dated June 1, 1976; and (3) the Commission's order of August 17, 1976.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 22, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30356 Filed 10-15-76;8:45 am]

[Docket No. ER76-150]

WISCONSIN PUBLIC SERVICE CORP.

Filing of Proposed Settlement Agreement and Revised Tariff Sheets

OCTOBER 12, 1976.

Take notice that on October 1, 1976, Wisconsin Public Service Corporation tendered for filing a Settlement Agreement dated September 20, 1976, and signed on behalf of the Company and each of the eight wholesale customers affected thereby.

Concurrently with its tender of the proposed Settlement Agreement, Wisconsin Public Service Corporation tendered for filing revised rate schedules intended to reflect the terms of the proposed Agreement. The revised rate schedules consist of Tenth Revised Sheet No. 1, First Revised Sheet No. 2, and Original Sheet No. 3, Schedule W-1. The Company requests that such schedules be accepted for filing so as to become effective as of February 22, 1976, at the same time as the Settlement Agreement is approved by the Commission.

Wisconsin Public Service Corporation states that copies of the proposed Settlement Agreement and revised rate schedules are being sent to the customers affected thereby and to the Public Service Commissions of Wisconsin and Michigan.

Any person desiring to be heard or to protest said filings should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 22, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of these filings are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-30379 Filed 10-15-76;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

KANOPOLIS UNIT, KANSAS

Public Hearing on Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the Kanopolis Unit, Kansas, water development project. This statement (INT DES 76-39) was made available to the public on October 8, 1976.

The draft environmental statement deals with the modification of an existing dam and construction of a diversion in an existing stilling basin, canals, laterals, and drains. Kanopolis Dam is 24 miles southwest of Salina, Kansas, and is located in Ellsworth County.

Initial storage capacity of Kanopolis Reservoir is planned to be 205,000 acre-feet which will provide water for irrigation of 20,000 acres, municipal and industrial use in Salina, fishery flows, and to meet unspecified demands for the State of Kansas.

A public hearing will be held in Lindsborg, Kansas, at the Lindsborg Housing Authority Community Building, 421 East Saline Street, at 9 a.m. on November 18, 1976, to receive views and comments from interested organizations or individuals relating to the environmental impacts of this project. Oral statements at the hearing will be limited to periods of 10 minutes. Speakers will not trade their time to obtain a longer oral presentation; however, the person authorized to conduct the hearing may allow any speaker to provide additional oral comment after all persons wishing to comment have been heard. Speakers will be scheduled according to the time preference mentioned in their letter or telephone request, whenever possible, and any scheduled speaker not present when called will lose his privilege in the scheduled order and his name will be recalled at the end of the scheduled speakers. Requests for scheduled presentation will be accepted up to November 15, 1976, and any subsequent requests will be handled on a first-come-first-served basis following the scheduled presentation. Written statements received at the hearings will become a part of the hearing record and will not be reprinted in full in the final

environmental statement. The issues expressed in those written statements will be restated and responded to in the final environmetal statemet in the same manner as the oral testimony. Hearing transcripts and records will be available for public inspection at the address below and at the Kansas Reclamation Office, Landmark Plaza Building, 103 East 10th Street, Topeka, Kansas 66612, telephone (913) 234–8661.

Organizations or individuals desiring to present statements at the hearing should contact Regional Director Joe D. Hall, Bureau of Reclamation, Lower Missouri Region, Building 20, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–3779, and announce their intention to participate. Written comments from those unable to attend, and from those wishing to supplement their oral presentation at the hearing should be received by November 28, 1976, for inclusion in the hearing record.

Dated: October 12, 1976.

G. G. STAMM,
Commissioner of Reclamation.

[FR Doc.76-30391 Filed 10-15-76;8:45 am]

Office of the Secretary

CENTRAL ARIZONA PROJECT, ARIZ.

Allocation of Project Water for Indian Irrigation Use

INTRODUCTION

On April 15, 1975, the Secretary of the Interior gave notice of a proposed allocation of Central Arizona Project (CAP) water for Indian irrigation use. The notice was published in the FEDERAL REGISTER (40 FR 17297) on April 18, 1975.

The notice of proposed allocation invited written comments, suggestions, and/or objections from interested persons and stated that all relevant materials received before June 17, 1975, would be considered. About 20 letters of comment were received before or shortly after June 17, 1975. In addition to those comments, about 70 letters were received some time after June 17 that were not directly in response to the notice of proposed allocation. Most of those appeared to have been inspired by an article on the Pima Indians in a newsletter of the Association of American Indian Affairs, Inc. (No. 89, June–August 1975), reporting unfavorably on the proposed allocation.

The approximately 70 letters that were received as a result of the article in the newsletter were principally expressions of attitude rather than discussions of issues. However, most of the approximately 20 letters that were received directly in response to the published notice of proposed allocation did discuss the issues in one or more respect and did raise a number of relevant points. Those points are summarized below. Following that discussion, the departmental decisionmaking procedure is described and the final allocation is set forth.

I. SUMMARY OF COMMENTS RECEIVED ON PROPOSED ALLOCATION

The comments received in response to the notice published in the FEDERAL REGISTER on April 18, 1975, covered the administrative rulemaking procedures; statutory provisions, legislative history, and congressional intent; Indian water rights and needs; impacts on non-Indian interests; and suggested revisions to the proposed allocation. Summarized below are statements representative of those comments:

A. *Administrative rulemaking procedures.* Correspondents complained that they had been unable to obtain copies of materials used in making the proposed allocation. (All requests have been met.) They requested a public hearing on the record and the right to cross-examine the Secretary of the Interior and other officials who have participated in the administrative process of making the allocation, and they objected because written comments had not similarly been invited prior to the publication on December 20, 1972, 37 FR 28082, of the earlier Secretarial decision of December 15, 1972, entitled "Water-Use Priorities and Allocations of Irrigation Water."

B. *Statutory provisions, legislative history, and congressional intent.* Correspondents challenged the proposed allocation on the grounds that it was contrary to express provisions in the Colorado River Basin Project Act, 43 U.S.C. 1501 (herein referred to as the "Basin Act"), or to the intent of Congress as reflected in the legislative history. They suggested that the failure to use the term "industrial" along with "municipal" makes it inappropriate to give a priority to industrial uses over Indian needs. They also suggested that, notwithstanding the declining nature of the project water supply, a continuing fixed allocation of water be provided for Indian agricultural use. Agricultural interests expressed concern that the contingent nature of project supply in the later years would make it difficult to justify and finance distribution facilities; and agricultural interests have complained that under the municipal and industrial (M&I) priority, water could be wasted on nonessential purposes such as irrigating golf courses and filling swimming pools while crops are being lost for lack of irrigation water.

C. *Indian water rights and needs.* Correspondents claimed that the Indians would be deprived of their water rights by the proposed allocation. They contended that the Gila River tribe should be given CAP water to irrigate lands that could have been irrigated with water said to have been taken by the United States for the use of others.

They also contended that the proposed allocation would result in the abandonment of Indian agriculture in the later years of the project. Finally, they stated that basing the allocation on the criterion of lands presently developed for irrigation contravenes Section 304 of the Basin Act. Non-Indian correspondents contended that there is no basis in law for the Indian preference included in the proposed allocation.

D. *Impacts on non-Indian interests.* Correspondents contend that the priority granted to the Indians is inconsistent with the priority for M&I use established under the 1972 decisions, 37 FR 28082, and that the Indian use is detrimental to both M&I and non-Indian agricultural uses. They contend that competing uses will place a disproportionate financial burden on non-Indian agriculturalists.

E. *Suggested revisions to the proposed allocation.* Some correspondents suggested that a significantly larger—others a significantly smaller—quantity of water be allocated for Indian agricultural use; significant quantities of M&I water be allocated to the Indians; an allocation be made for the Fort McDowell tribe; and the amount of water to be marketed for M&I purposes be limited to preserve the agricultural functions of the project.

II. DEPARTMENTAL DECISIONMAKING PROCESS

The departmental decisionmaking process included the opportunity for comment by the interested parties and the general public, analysis and consideration of the comments received, evaluation of alternatives, evaluation of possible environmental impacts, and Secretarial meetings with Indian and non-Indian interests.

A. *Analysis and Consideration of the Comments Received—1. Rulemaking procedures.* Some of the correspondents complained that they had been unable to obtain copies of materials used in making the proposed allocation. To obviate that problem, an administrative record of significant meetings, correspondence, and factual data relied upon in making the proposed allocation was assembled in the Arizona Projects Office of the Bureau of Reclamation in Phoenix, and its availability for inspection by the public was announced in the notice published on April 18, 1975. Duplicate sets of those documents were made available to the Phoenix office of the Bureau of Indian Affairs and to the Washington office of the Bureau of Reclamation. A number of requests for complete sets or portions thereof were received both in Phoenix and in Washington. All requests for copies of those and any other materials that were received have been complied with and the materials have been furnished.

Some of the correspondents have requested a public hearing on the record and the right to cross-examine the Secretary of the Interior and other officials who have participated in the administrative process of making the allocation. Although it has been the practice during the extended course of the deliberations leading up to the allocation to meet with representatives of interested groups who have requested such meetings, formal public hearings on the record, including cross-examination, are not required by law for this kind of a decision, and the benefits to be expected from such pro-

ceedings would not be commensurate with the costs to the parties, the delay in implementation, and the exacerbation of conflicts. The comments that have been received have been carefully assessed and taken into consideration in the allocation.

There was some objection because written comments had not similarly been invited prior to the publication on December 20, 1972, 37 FR 28082, of the earlier Secretarial decisions of December 15, 1972, entitled "Water-Use Priorities and Allocation of Irrigation Water." The earlier decisions announced, among other things, the principle of a priority for municipal and industrial uses. However, the earlier decisions were an integral part of the notice of proposed allocation published April 18, 1975, having been referred to and incorporated therein. Interested parties, therefore, had the opportunity to and did submit relevant comments.

2. *Statutory Provisions and Legislative History.* A number of the comments challenged the proposed allocation on the grounds that it was contrary to express provisions in the Basin Act or to the intent of Congress as reflected in the legislative history. These challenges were made by both the Indian and non-Indian interests, but usually with respect to different statutory provisions or different portions of the legislative history. Therefore, it has been decided to set forth, in some detail, those statutory provisions and portions of the legislative history that are considered to be significant and that were relied upon in making the final allocation. By discussing the statutory provisions and the legislative history now, in advance of discussing some of the other issues that were raised in the comments, a better understanding of the latter issues will be possible.

a. *Priority for M&I.* Section 301(a) of the Basin Act states that the Central Arizona Project is authorized for the purpose, among others, "of furnishing irrigation water and municipal water supplies to the water-deficient areas of Arizona and western New Mexico through direct diversion or exchange of water." It has been suggested in some of the comments that the failure to use the term "industrial" along with "municipal" makes it inappropriate to give a priority to industrial use. However, an authorization for municipal purposes includes industrial uses, since municipal water systems routinely provide water to industrial users within their service area.

"Municipal" is used in section 301(a) to distinguished from irrigation uses, not from industrial uses,[1] as is made explicit in subsequent sections of the Basin Act. Section 304, authorizes master contracts with a State water user organization for "[i]rrigation and municipal and *industrial* water supply" and further provides that "[c]ontracts relating to municipal and *industrial* water supply under the Central Arizona Project may be made without regard to the limitations of the last sentence of section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c) * * *" [Emphasis added.] The last sentence of section 9(c) of the Reclamation Act establishes a priority for irrigation over M&I uses.[2]

In canceling the priority for irrigation use under Reclamation law, Section 304 implements the congressional intent reflected in the legislative history that M&I purposes would take priority in the Central Arizona Project.[3]

Page 26 of the Report of the Senate Committee on Interior and Insular Affairs (S.R. 408, 90th Cong., 1st Sess.), describes the use of project water as follows:

> The committee feels that the transition from an agricultural economy dependent on irrigation to a strong, diversified industrial economy is inevitable. It is also desirable, because industrial and municipal uses of water will, in the long run, support a large and more affluent population than will predominately agricultural uses of water. And this is a very important consideration in an area which will probably always have to live within definite constraints on availability of water supplies. Basic changes such as these in the structure and fabric of a region's economy and way of life do not normally occur overnight; however, and when they do, they are usually accompanied by tragic dislocations which disrupt the economy of the area, the well-being of its institutions and the security and the aspirations of its people.
>
> *The committee's approval and endorsement of S. 1004 is in part based on a recognition of the need for a gradual transition toward a predominantly municipal and industrial use of water.* Accordingly, water supplied under the project is to supplement existing supplies and no new lands are to be irrigated. Water supplied by the Central Arizona Project will allow Arizona to utilize its share of Colorado river water awarded and decreed by the Supreme Court. It will also provide time to diversify the economy, to plan, and to implement procedures which will avoid the crises which too often accompany a region's realization that economic growth must take place within the confines of a limited water supply. [Emphasis added]

Congress had in mind that without the Central Arizona Project, the supply of ground water for agriculture would be "drastically depleted" because of the present rate of overdraft and because of the increasing preemption of the groundwater supply by M&I users. It viewed the project as prolonging the availability of water for agriculture, but not as a permanent solution to the water dilemma. Ultimately, the project would provide an additional firm supply of M&I water, while in the interim the existing agricultural uses would be maintained as much as possible. Thus, on page 27 of the Senate Report:

> Because of pumping costs, poor water quality, and the physical limitations imposed by the variable nature of the underground storage, the entire volume of underground water cannot be considered available for use. The present net rate of overdraft of about 2 million acre-feet per year will drastically deplete this largely nonreplenishable resource before adequate water is available to bring supply and demand in balance.
>
> Water use in Arizona in the past has been predominantly for agriculture. As late as 1960 more than 90 percent of the water used in central Arizona was used for agricultural purposes. As the urban areas of Phoenix and Tucson expand, this relationship of water use is changing rapidly. The rate of change is expected to accelerate in the future as the population continues to expand and as industrial development increases.
>
> Central Arizona Project water will be marketed through qualified contracting agencies, principally municipalities and irrigation districts. The chief immediate result of purchases of project water by either of these two types of users will be a reduction in present overdrafts on the ground water, which in turn will result in prolonged availability of water for all uses. The use of project water to satisfy the growing urban needs will slow the pace of the preemption of agricultural water which is now taking place.
>
> In brief, the Central Arizona Project is needed to—
>
> 1. Reduce a dangerous overdraft upon ground water reserves.
>
> 2. Maintain as much as possible of the area's 1,250,000 acres of irrigated farm land.
>
> 3. Provide a source of additional water for municipal and industrial use that will be required during the next 30 years.

Similar statements appear on pages 54 and 55 of the Report of the House Committee on Interior and Insular Affairs (H.R. 1312, 90th Cong., 2nd Sess.).

Page 32 of the Senate Report states that the Committee adopted the Bureau of Reclamation's water studies, and a "Summary of Bureau of Reclamation Reservior Operation and Water Supply Studies" appears on page 35. Those studies showed a declining supply of project water from the year 1975 through the year 2030. In the year 1975, about 1.7 million acre-feet were expected to be available for irrigation purposes; whereas only 82,000 acre-feet were expected to be used for M&I purposes. The former figure gradually reduced through the years, and the latter figure gradually increased; until by the year 2000, project deliveries for M&I purposes were estimated to be 312,000 acre-feet per year.

Thus, the curtailment of the project supply of irrigation water to provide a dependable M&I supply is an integral feature of the act. As footnote 3 on page 34 of the Senate Report states: "Although the average yield under the year 2030 conditions would be 723,000 acre-feet, *the assured yield would be less than ½ of this figure and would be devoted to municipal and industrial use.*" (Emphasis added.)

As planned and enacted by Congress, the variable project yield was to be used

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[1] In the Colorado River Compact, for example, the term that is used to make the distinction between irrigation and M&I uses is "domestic" use, defined to include "the use of water for household, stock, municipal, mining, milling, industrial, and other like purposes, but shall exclude the generation of [hydro] electrical power." The use of water for hydro generation is not a consumptive use and, therefore, is not given priority under the Compact; whereas, the use of water for thermal generation is a consumptive use and has priority as an industrial use.

[2] "No contract relating to municipal water supply or miscellaneous purposes * * * shall be made unless, in the judgment of the Secretary, it will not impair the efficiency of the project for irrigation purposes."

[3] Otherwise, under Section 604 of the Basin Act, the Secretary would be governed by the Federal Reclamation laws in constructing, operating, and maintaining the Central Arizona Project.

for agricultural purposes and was to diminish over the years; whereas the bulk of the assured yield was ultimately to be used for M&I purposes. Subsequent studies by the Bureau of Reclamation have resulted in some changes in the hydrologic estimates with respect to average and assured yield[4] and some changes in the demand for M&I water, but the relationship between the use of project water for agricultural purposes and for M&I purposes remains essentially the same.

The allocation of project water for Indian irrigation use gives recognition to the foregoing principle.

b. *Need for Augmentation.* In the words of then Secretary of the Interior Udall, quoted on page 27 of the Senate Report, the project would only alleviate the most immediately urgent water supply deficiencies. In order to meet fully the future agricultural and M&I needs of the region, the supply of water from the Colorado River would have to be augmented. On page 40 of the House Report:

> It is inevitable that water requirements will exceed the supply. This condition will occur with or without a Central Arizona Project.

And on page 41 the need and prospects for augmentation are further discussed. Section 201 of the Basin Act provides authority to make the necessary studies.

c. *Allocation for Indian Irrigation Use.* There are no express provisions in the Basin Act respecting the amount of water that should be allocated for Indian irrigation use, although there are provisions that indicate a congressional expectancy that some water would be allocated for that purpose. For example, in Section 304 of the Basin Act, Indian lands are exempt from the prohibition against using project water for irrigation of lands not having a recent irrigation history and do not require master repayment contracts. Under Section 402 of the Basin Act, construction costs allocated to irrigation of Indian lands are, in effect, nonreimbursable.

On page 27 of the Senate Report, it is stated that one of the purposes of the project is to "[m]aintain as much as possible of the area's 1,250,000 acres of irrigated farm land." The farm lands irrigated by Indians are included in this figure, along with all farm lands irrigated by non-Indians.

Further, as has been noted in some of the comments, the approximately $832 million authorized to be appropriated for project construction in Section 309 of the Basin Act, includes an authorization of about $20 million for an Indian distribution system (page 36 of Senate Report). However, we do not find any reliable evidence that the amount of the authorization was related to the amount of water the Indians would receive from the project. In this respect it should be noted that there is also authorized in Section 309 of the Basin Act the sum of $100 million for construction of distribution and drainage systems for non-Indian lands. If the respective figures were assumed to be relevant to the allocation of project water between Indian and non-Indian lands, the ratio would be 1 to 5.

Another possible clue in the legislative history is the extent to which the irrigation costs were allocated to Indians and, therefore, excluded from the project economic and financial analyses. Although all of the approximately $20 million authorized for Indian distribution systems was excluded from such analyses, none of the costs allocated to irrigation were excluded (page 37 of the Senate Report). It could be supposed that if any substantial amount of project water had been expected to be used for Indian irrigation, the amounts alloeated thereto would have been excluded from the project economic and financial analyses.

3. *Indian water rights and needs.* A number of the comments have mistakenly complained that the Indians are being deprived of their water rights by the proposed allocation. However, the five central Arizona tribes which are within the service area of the Central Arizona Project do not have rights to the Colorado River water to be made available by the project. The project diverts water from the mainstream of the Colorado River at Lake Havasu and by aqueduct transports that water more than 300 miles to the project service area; whereas under the doctrine of reserved Indian water rights set forth in *Winters* v. *United States*, 207 U.S. 564 (1908), rights are reserved to Indian tribes only in waters that are on or adjacent to their reservations.

Therefore, although some of the five central Arizona tribes that will receive project water may have adjudicated rights in the waters indigenous to central Arizona, they have no such rights to the waters that the project will transport from the mainstream of the Colorado River. Consistent with this view, no rights on the mainstream of the Colorado River were decreed for the five central Arizona tribes in *Arizona* v. *California*, 373 U.S. 546 (1936); Decree—376 U.S. 340 (1964).

Some of the comments have also alleged that the proposed allocation to Indian irrigation would result in the destruction of Indian agriculture in the later years of the project and would take away the Indian's livelihood. However, the project takes nothing from the Indians that they might otherwise have if the project were never built. The project water that is allocated to Indian agriculture supplements whatever water sources the Indians might have.

The regrettable fact is that if the project is never built, both Indian and non-Indian agriculture will experience the crisis of a disappearing water supply within an earlier period of time than would be the case with the project. The effect of the project is to prolong the period during which an adequate supply of water will be available and to moderate the shortages during the later critical periods.

In Docket 236–C and Docket 236–D, United States Court of Claims, the Gila River tribe is seeking compensation for a taking by the United States of certain of its water rights on the Gila River in central Arizona. The tribe argues that it should be given water from the Central Arizona Project to irrigate the lands that could have been irrigated by the water that has been taken from it. However, the taking has already occurred; the tribe's right to idemnification has already vested; and a remedy in the Court of Claims is available to and is being actively pursued by the tribe.

Any attempt to allocate project water to the tribe in compensation for the taking would present insoluble complications in terms of reconciling such an allocation with the Court of Claims proceedings and with the congressional intent in authorizing the Central Arizona Project. For one thing, the project water supply for irrigation is at best only a supplemental one, and after the first 20 years even that supply will be highly contingent; whereas the tribe's claim would be based on a water right of the first priority. Further, although there is authority under the Basin Act to contract for the sale of project water to non-Indians and authority to make a reasonable allocation of project water for Indian irrigation use on a nonreimbursable basis, there is no authority to use project water to pay or compromise claims of the Gila River tribe or anyone else.

Moreover, the water the tribe claims has been unlawfully taken would have been used to irrigate lands that are not now developed for irrigation. The tribe would have to make substantial capital investments in those lands to develop them for irrigation before it could take advantage of project water, an investment which would be questionable in view of the contingent nature of the project water supply for irrigation use after the first 20 years.

It was because of this contingency in the water supply for irrigation after the first 20 years that it was decided that one of the criteria for determining the allocation of project water for Indian irrigation use should be to restrict the supply of project water to those Indian lands which are presently developed for irrigation. In this way the Indians would be able to prolong the irrigation of such lands and would not be encouraged to make investments in the development of the lands for which the water supply was contingent.

The comments submitted in behalf of the five central Arizona tribes argue that basing the allocation on the criterion of

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[4] Studies made during authorization assumed that aqueduct conveyance losses would be about 10 percent of the total water diverted from the Colorado River. More recent analyses indicate that the annual conveyance losses will be fairly constant. Thus, less water will be available during shortage years while more water will be available during years of normal and above-normal supply. Recently updated estimates of lower Colorado River channel losses and of increased water use by the other Colorado River Basin States have been taken into account in estimating the availability of project water.

lands presently developed for irrigation contravenes section 304 of the Basin Act. The latter provision prohibits making project water available directly or indirectly for the irrigation of lands not having a recent irrigation history,[5] but expressly exempts Indian lands from the prohibition.

In using presently developed lands as a criterion for determining the allocation of project water for Indian irrigation use, no effort is made to restrict the use of such water by the tribes for the irrigation of other lands. The criterion does not; accordingly, conflict with section 304, of the Basin Act, although it is assumed that the irrigation of presently developed lands will be more feasible than would the development of new lands.

The point is that the criterion is a reasonable guideline for allocating a limited and contingent supply of water. It was determined that to the extent water was available from the project for irrigation purposes, it should be allocated on the basis of servicing 100 percent of the presently developed Indian lands during the early years of the project.[6] This would permit the Indians to maintain their agricultural capability as long as possible; whereas the non-Indian agricultural interests would be able, without overdrafting of ground water, to irrigate only about one-third of their lands having a recent irrigation history.[7]

The non-Indian irrigation interests complain in their comments that there is no basis in the law for such a preference for Indian irrigation. However, in making an allocation of this kind, there are no hard and fast rules which can be referred to. It is a process of evolving equitable and reasonable guidelines for determining how the supply of project water should be allocated between the Indian and non-Indian agricultural interest, and some discretion is available to the Secretary of the Interior.

As the Supreme Court pointed out in *Arizona* v. *California*, 373 U.S.C. 546 (1963), when Congress confers on the Secretary the authority to contract for the disposition of project water, as it has done in Section 304 of the Basin Act, it intends for the Secretary "to decide which users within each State would get water. The general authority to make contracts normally includes the power to choose with whom and upon what terms the contracts will be made." Later in the opinion, the Court states that in apportioning limited water supplies, the Secretary is not required to prorate the supply. To so require would "strip him of the very power of choice which we think Congress, for reasons satisfactory to it, vested in him and which we should not impair or take away from him." Decisions that the Secretary may make as to the allocation of a limited supply of water, the Court notes, would have significant public welfare consequences, and the Secretary should have the discretion to take those consequences into account in making the allocation.

A moderate advantage for Indian over non-Indian agricultural interests is a reasonable exercise of the Secretary's discretion because of underdevelopment in the Indian communities and because the Secretary traditionally has a special concern for their welfare. The theme of special concern for Indian interests is a recurrent one in the entire fabric of law and court decisions relating to Indians and is part of the Basin Act itself—in the provisions, for example in setion 304 of the Basin Act (canceling the restriction against Indian irrigation of new lands) and Section 402 (relieving Indians of obligation to repay construction costs for project irrigation water).

Notwithstanding the Secretary's special concern for Indian welfare, project water could not reasonably be allocated predominantly for Indian irrigation use. As is clear from the legislative history, Congress did not regard the project as an Indian irrigation project, in the sense that the Navajo Indian Irrigation Project in New Mexico, 43 U.S.C. 1615ii, is exclusively for the benefit of the Navajo tribe.

Although an advantage has been given to Indian irrigation use of project water, the tribes will be expected to contract for M&I water on terms and conditions comparable to those that apply to non-Indian M&I users. The Indian exemption from reimbursing the Government for the cost of providing project water in section 402 of the Basin Act, applies only to the irrigation of Indian lands. The one variation on this requirement will be the traditional practice of the tribes dealing directly with the Secretary rather than with the State or with a subdivision of the State such as the Central Arizona Water Conservation District.

In the notice of proposed allocation that was published in the FEDERAL REGISTER on April 18, 1975, the tribes were invited to express their interest to the Secretary if they wished to contract for project M&I water like any other entity in central Arizona. At the time of that announcement, the conservation district deadline had already expired for prospective M&I subcontractors to commit themselves, but in their comments responding to the notice of proposed allocation, the five central Arizona tribes have expressed an interest for M&I water in the amount of 188,000 acre-feet annually through the year 2005 and the difference thereafter between 445,000 acre-feet and the amount of irrigation water received in every year. Since it has been determined to treat Indian requests for M&I water on the same footing as all other requests, the Indian requests will be reconciled as to amounts terms, conditions, and projected uses with the requests for M&I water that have been made by non-Indians, and a reasonable allocation will be made to them for M&I uses, for which repayment contracts with the Secretary will be expected.

4. *Impacts on non-Indian interests.* Non-Indian agricultural interests have expressed apprehension in their comments that the allocations of project water for Indian irrigation and M&I use will produce a disproportionate financial burden on non-Indian agriculturallsts. There is, however, no basis for such apprehension since, pursuant to the contract with the conservation district, the cost allocated for repayment by non-Indian water users would be reduced in proportion to the amount of water that is allocated to Indian water users. Also, as provided in Section 304 of the Basin Act, the repayment obligation of non-Indian agriculturalists will be commensurate with their ability to pay, pursuant to the Reclamation Project Act of 1939, 43 U.S.C. 485. Moreover, amounts received from Indian M&I uses will be credited to the Lower Colorado River Basin Development Fund to assist in repaying project costs.

The non-Indian agricultural interests have also expressed a concern that because of the M&I priority, the supply of project water after the first 20 years for non-Indian irrigation uses will be contingent, and it will be difficult for any of them to finance the construction of the distribution facilities necessary to take advantage of the project water supply. Unfortunately, this problem is inherent in the fact that the Central Arizona Project was not planned to nor can it provide a total solution to all of the water-user problems in the region.

The Central Arizona Project is a complex and costly system for diverting and pumping water from the Colorado River and transporting it by aqueduct more than 300 miles to central Arizona. Priority has been given to M&I uses both because they are traditionally regarded as the more urgent uses and because they are able to economically justify the high cost associated with providing such service. Although the cost for project M&I water is comparable to or even less than the cost for an M&I water supply in some of the other water-short areas, it is too high to economically justify the use of such water for agriculture in central Arizona.

Non-Indian agricultural interests will nonetheless benefit substantially from the Central Arizona Project. Even though the supply of project water after the first 20 years for irrigation use will be contingent, there will be years in which a generous supply of project water will be available for that purpose. When used by irrigators who are able to arrange for

[5] "Lands presently developed for irrigation" is not the same as "lands not having a recent irrigation history." In the criterion used for the allocation of project water for Indian irrigation use, all lands that were presently developed for irrigation were taken into account, notwithstanding that such lands may not have had a recent irrigation history.

[6] The acreage of presently developed Indian land is about twice the number of acres of Indian land presently being farmed.

[7] In the notice of proposed allocation, it was stated that the non-Indian agricultural interests would be able to continue irrigation of about 50 percent of their lands. In their comments, the non-Indian interests contended that the figure was too high and that they could continue irrigation of only about 30 percent of their lands. A further review of the data leads us to conclude that about one-third would be more accurate.

distribution facilities, such use will significantly reduce the drain on the ground water and thereby facilitate pumping of ground water by agricultural interests who cannot arrange for the necessary distribution facilities. The project water supplied for M&I uses similarly will reduce the drain on the ground-water supply, and agricultural interests will for this reason indirectly benefit from the project even if all project water were made exclusively available for M&I use. Additionally, agricultural interests may be better able to arrange for distribution facilities than may now seem apparent if they cooperate with each other in constructing joint distribution systems or in working out water exchanges.

The non-Indian M&I interests have also complained that the allocation to the Indian tribes for irrigation use of a guaranteed amount of 257,000 acre-feet annually for the first 20 years and 10 percent of all project water annually thereafter constitutes a priority for Indian irrigation use that is inconsistent with the priority for M&I use established under the 1972 decisions, 37 FR 28082. Among other things, it was there stated:

> All contracts and other arrangements for Central Arizona Project water shall contain provisions that in the event of shortages, deliveries shall be reduced pro rata until exhausted, first for all miscellaneous uses and next for all Central Arizona Project agricultural uses, before water furnished for municipal and industrial uses is reduced.

However, that condition was established by the Secretary of the Interior on December 15, 1972, concurrently with his execution of a contract with the Central Arizona Water Conservation District for non-Indian irrigation and M&I uses. Although the latter contract reiterates the same schedule of priorities in Article 8.11, it also expressly states that those priorities do not apply to Indian uses and that the relative priority between Indian and non-Indian uses is to be determined by the Secretary.[8] There should be no misunderstanding that the final allocation as set forth below establishes certain rights in the tribes to use project water for irrigation use irrespective of the priorities established for M&I uses in the 1972 decisions.

Agricultural interests have also complained that under the priority for M&I uses set forth in the 1972 decisions, water could be wasted on nonessential purposes such as irrigating gardens and golf courses and filling swimming pools, while crops were being lost for lack of irrigation water. To obviate this risk the 1972 decisions contained the following condition:

> In times of water shortages the Secretary will exercise his rulemaking authority to require assurances satisfactory to him that appropriate water conservation measures have been adopted by project water using entities.

The intention to impose appropriate water conservation measures to avoid wasteful M&I uses is reaffirmed.

5. *Revisions to the proposed allocation.* Congress intended the Central Arizona Project to benefit everyone in the region, both Indian and non-Indian, and any allocation of project water to Indian irrigation use that would make the project of little or no benefit to non-Indian interests could not be reconciled with that intent. Both Indian and non-Indian interests are in dire need of water. An allocation of project water for Indian irrigation use so disproportionately large as to make the benefit to the non-Indian community meaningless would be outside the congressional intent, no less than would be an allocation to the non-Indian agricultural interests or to M&I users that would have made the benefit to the Indians meaningless. The Department's task, therefore, is to evolve a formula for allocating project water for Indian irrigation use that will at the same time be generous to the Indians but not so disproportionately as to vitiate the benefit of the project to the non-Indians.

A number of alternatives to the proposed allocation were proposed and considered as to their potential to equitably distribute project benefits while remaining consistent with the congressional intent in authorizing the project. Of all the alternatives that were proposed and considered, only the proposed allocation seems to offer a fair and equitable distribution of project benefits among Indian and non-Indian interests while remaining consistent with the intent of Congress.

However, in the final allocation appearing below, in addition to a number of editorial revisions, one substantive revision has been made in the proposed allocation that was published on April 18, 1975.

It was stated in the proposed allocation that the Fort McDowell tribe had an ample supply of surface water to satisfy all of its onfarm requirements. Therefore, no project water was allocated to that tribe, although it had requested an allocation of 5,000 acre-feet annually.

Based on the guidelines adopted for allocating project water for Indian irrigation use, the other four tribes would have been entitled to 252,700 acre-feet per year. Since the distribution of project water for Indian irrigation use in the later years of the project would be made on a percentage basis, the 252,700 acre-feet was rounded out to 257,000 acre-feet annually so as to equal 20 percent of the estimated irrigation water available in years of normal supply.[9] This permitted the allocation to the other four tribes to be increased by 4,300 acre-feet annually. The other four central Arizona tribes have supported the request by the Fort McDowell tribe and have questioned why the approximately 4,300 acre-feet annually that was added to the combined allocation of 252,700 acre-feet annually for the other four tribes was not instead made available to the Fort McDowell tribe.

Since the other four tribes support the request of the Fort McDowell tribe, and with the expectancy that that water would be used by the Fort McDowell tribe on the new in-lieu lands which it may receive pursuant to section 302 of the Basin Act, said 4,300 acre-feet will be allocated to the Fort McDowell tribe. The adjustments required in the allocation to the five tribes are set forth in the final allocation included herewith.

B. *Evaluation of Environmental Impacts.* The NEPA (National Environmental Policy Act of 1969) process has been considered in connection with the Central Arizona Project from the beginning. The programmatic CAP environmental impact statement (EIS) was done in 1972 and the subsequent site-specific EIS's which have been completed and are underway all show that the Department has complied, and continues to comply, with the NEPA procedures. The Bureau of Reclamation recently completed an Environmental Assessment Report (EAR) on the proposed allocation of April 18, 1975. The EAR concludes that the proposed allocation does not significantly affect the quality of the human environment, and it is the Solicitor's opinion that the EAR is legally sufficient.

C. *Meetings with Indian and Non-Indian Interests.*

1. *Congressional Hearings.* On October 23 and 24, 1975, the Senate Committee on Interior and Insular Affairs conducted oversight hearings on the water requirements and related water rights issues relating to the five central Arizona Indian tribes. The public record, established as a result of those hearings, provided a valuable overview of the water supply and needs of all Arizona interests, particularly of the Indian interests.

2. *Secretarial Meetings.* To assure that the Secretary was aware of all relevant viewpoints and therefore able to make an informed decision, the Acting Secretary, in September 1975, made a commitment that the Secretary would hear additional comments from both M&I users and Indian and non-Indian agriculturalists prior to making the final decision on the allocation of water for Indian agricultural use.

The Secretary met on April 13, 1976, with representatives of the five central Arizona tribes and on April 14, 1976, with representatives of State and local governmental bodies and private water users. During those meetings, the Secretary heard the arguments of the various interests and invited the submission of any additional information relevant to the decision at hand. In addition to the statements presented at the meetings, a letter was received from the

[8] The contract with the conservation district has not been validated under State law as is required by its terms, but we have no doubt that the conservation district will do this soon now that the final allocation has been made.

[9] This estimate was based on the assumption that no more than the dependable annual supply would be marketed for M&I use.

Arizona Water Commission outlining that agency's preliminary views on possible priorities and allocations among non-Indian interests.

Dated: October 12, 1976.

KENT FRIZZELL,
Acting Secretary of the Interior.

CENTRAL ARIZONA PROJECT, ARIZONA

ALLOCATION OF PROJECT WATER FOR INDIAN IRRIGATION USE

Pursuant to the authority vested in the Secretary of the Interior by the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885, 43 U.S.C. 1501), (herein referred to as the "Basin Act") and the Act of June 17, 1902, as amended (32 Stat. 388, 43 U.S.C. 391), certain Secretarial decisions made on December 15, 1972, concerning the priorities for water use and the allocation of irrigation water between Indian reservation lands and non-Indian lands within the Central Arizona Project, were published on December 20, 1972, 37 FR 28082. The publication also announced Secretarial execution on December 15, 1972, of a contract with the Central Arizona Water Conservation District for delivery of project water and repayment of project costs.

The Secretarial decisions of December 15, 1972, and the concurrently executed contract with the District contemplated a future Secretarial allocation of irrigation water from the Central Arizona Project for Indian use within established reservation boundaries. Pursuant to the authorities cited above, such an allocation is set forth below.

Before describing the procedure used to determine the allocations set forth below to the five central Arizona Indian tribes for irrigation use within the boundaries of their respective reservations, a critical feature of the Central Arizona Project should be understood. The project was not planned to—nor did Congress intend in authorizing it that it would—provide a total solution to the water requirements of central Arizona.

This is arid country with a limited supply of surface and ground water. Both agricultural and municipal and industrial uses have to depend on ground-water pumping, but the ground-water level has been dropping at an alarming rate so that the expense of pumping may soon make irrigated farming in this region uneconomical. Moreover, the ground-water supply is not expected to be adequate to support the demand for municipal and industrial water accompanying estimated future population growth and industrial development.

The Central Arizona Project is designed to alleviate the agricultural drain on the ground-water supply in the early years of the project and to provide a dependable supply of municipal and industrial water on a permanent basis. The early years of the project are about the first 20 years during which time waters not being used by the other Colorado River Basin States will be diverted through the project to central Arizona and used in lieu of or to replenish the ground-water supply. It is during this period of time that the project will make its greatest contribution to irrigation. During the first 20 years, two developments will converge to reduce significantly the water available from the project for irrigation. One will be the increasing utilization of the Colorado River by the other Basin States, and the other will be the increasing demand in central Arizona for municipal and industrial water.

It is clear, based on the legislative history, the hydrologic studies, and the financial realities, that the Central Arizona Project was not intended by the Congress to be used primarily for irrigation after the first 20 years, nor would it be reasonable to use such costly water for that purpose. That was the reason municipal and industrial uses were assigned a first priority in the decisions of December 15, 1972, 37 FR 28082.

After the first 20 years all irrigators in central Arizona, Indian and non-Indian alike, will have to look to sources other than the watersupply which is now being allocated between Indian and non-Indian irrigation to supplement their ground-water supply. The authorizing legislation contemplates that such future water needs of Arizona and other arid States in the West will be met by augmentation of the natural flows of the Colorado River. It is hoped that by the time the need becomes critical, the technical means for accomplishing augmentation will have been developed. However, since there are no specifically authorized augmentation programs at the present time, the possibility of augmentation was not taken into account in allocating project water for Indian irrigation use.

Therefore, with the understanding that the water supply from the Central Arizona Project, which is hereby being allocated between Indian and non-Indian agricultural users, will not be a total solution to their respective needs, it has been determined to make the allocation in two successive time frames. One will cover the project water that will be available during the first 20 years, and the other will cover that to be available thereafter.

During the deliberative process, the Secretary and his representatives met with the Indian tribes and their representatives and with officials of the State of Arizona to explore Indian expectations and needs and to sort out the conflicitng claims and facts. During those meetings, a consensus developed as to an acceptable approach for determining the amount of water to be allocated to Indian irrigation use during the early years of the project. In the final decision-making process, a number of alternatives were proposed and considered but none seemed to offer as fair and equitable a distribution of project benefits to Indian and non-Indian interests, while at the same time remaining consistent with the congressional intent in authorizing the Central Arizona Project.

As a result thereof, it has been determined that sufficient project water should be made available to the Indian tribes so that 100 percent of lands presently developed for irrigation on the Indian reservations can be irrigated. The amount of project water that would be made available would take into account the estimated available surface water and the estimated current ground-water yield that is available for irrigation without overdrafting. The Bureau of Reclamation was requested to make a technical study of the water requirements under those assumptions in cooperation with the Indian tribes and the State officials and to provide the Secretary with a report. The Bureau's findings and the supporting technical material have been reviewed and have been determined to be reliable and accurate.

In outline, the Bureau of Reclamation used the following procedure: (1) The total acreage of presently developed lands on each reservation was determined. (2) The total water requirement for each reservation was computed on the basis of 4.59 acre-feet per acre. (3) The number of acre-feet of nonproject surface and ground water available to each reservation was estimated. (4) The number of acre-feet of project water required for each reservation was then obtained by subtracting the available surface and ground water from the total water requirement. (5) The number of acre-feet to be delivered to each tribe at the turnout points on the project canals (canalside) was the amount as determined in No. 4 multiplied by 1.176 (which is the same as dividing by 0.85) to allow for a 15-percent loss in the distribution systems from the amount delivered canalside.

A summary of the Bureau of Reclamation's findings are presented in the following table (units in 1,000's of acres or acre-feet):

Reservation	Presently developed acreage	Multiply by 4.59 for total onfarm acre-ft required	Subtract available water		Multiply by 1.176 for acre-ft of project water canalside
			Surface	Ground	
AK Chin	10.8	49.6	0	0	58.3
Gila River	62.1	28.5	77.3	60.6	173.1
Papago	1.7	7.8	0	1.0	8.0
Salt River	13.0	59.7	33.6	11.8	13.3
Fort McDowell	1.3	6.0	6.0	0	0
Total	88.9	408.1	116.9	70.4	252.7

There were one or more respects in which the tribes' figures and the State's figures were in disagreement with those of the Bureau of Reclamation. In general, the tribes' figures tended to increase the amount of project water which should be allocated to them, as compared with the amount supported by the Bureau of Reclamation's figures, and the State's figures tended to diminish such amount. To give an illustration of the range, the respective totals of the amounts of project water which should be allocated to the tribes were as follows (1,000 acre-feet):

State	194.3
Bureau of reclamation	252.7
Tribes	395.0

A principal area of disparity among the three groups was in the estimate of the ground-water supply available for irrigation use. The State's ground-water estimate, for example, would have credited the Gila River tribe with 114.8 thousand acre-feet of ground water to be deducted from the tribe's total water requirement; whereas the Bureau of Reclamation's estimate was 60.6 thousand acre-feet and the tribe's 28.3 thousand acre-feet. The State used a least-cost analysis (cost of ground-water pumping versus cost of project water) in evaluating ground-water availability, but that approach would not be appropriate for Indian irrigation water since project water will be made available to the tribes on a nonreimbursable basis.

The tribe's estimate was also rejected because it would have eliminated from the ground water available for irrigation use an amount which the tribe plans to use in the future for municipal and industrial purposes. Under the Bureau of Reclamation's estimate, which has been adopted, deductions from the ground water available for irrigation use would be permitted for present municipal and industrial uses, but not for anticipated municipal and industrial uses since the Tribes will be expected to contract for M&I water, as other M&I users do.

The Papago and the Salt River tribes each similarly claimed less ground water available for irrigation uses than that estimated by

the Bureau of Reclamation, but there is no convincing support for their claims.

There were also differences in the respective estimates in matters other than ground water. The Gila River tribe, for example, requested water for the irrigation of reservation lands that had figured in litigation involving a claim by the tribe for a taking by the United States of some of its water rights on the Gila River (29 Ind. Cl. Comm. 144). The tribe is now pursuing a remedy for money damages against the United States in connection with those Gila River water rights. For the reasons set forth in the introduction to this allocation, those lands were not taken into account under the foregoing approach.

The Salt River tribe, on the other hand, claimed a water duty of 6.25 acre-feet per acre, instead of the normal water duty of 4.59 acre-feet. This claim was predicated on a more intensive use of water due to double cropping and other practices. In making an allocation of project water to the Salt River tribe for irrigation use, it is not intended to prescribe how the tribe should conduct its agricultural enterprises nor to prevent the tribe from continuing those practices requiring the larger water duty of 6.25 acre-feet per acre. However, in determining what supplemental supply of water should be made available to the tribe in addition to the surface and ground water now available to it, it was determined to use the normal water duty of 4.59 acre-feet applied to each of the other four tribes. In this way, nothing is being taken away from the Salt River tribe that it would otherwise have without the project. However, as to the benefits that will be made available from the project, the same guidelines will be used for the Salt River tribe as apply to each of the other tribes.

The Fort McDowell tribe has an adequate supply of surface water to satisfy all of its present onfarm requirements. The tribe will be receiving new in-lieu lands pursuant to Section 302 of the Basin Act, and each of the four other tribes has supported the request of the Fort McDowell tribe for an allocation of 5,000 acre-feet annually of project water. Since the other four tribes are of the view that it would be better to give to the Fort McDowell tribe the 4,300 acre-feet annually that was added to their entitlement under the procedures used in arriving at the proposed allocation, said 4,300 acre-feet annually are hereby allocated to the Fort McDowell tribe.

Accordingly, the allocation will be made on the basis of the Bureau of Reclamation's findings. The total of 252,700 acre-feet annually for Indian irrigation use which is supported by the foregoing findings, plus the 4,300 acre-feet for the Fort McDowell Indian Reservation, amounts to about 257,000 acre-feet annually. For the first 20 years, the tribes will receive a fixed amount of 257,000 acre-feet annually, subject, of course, to the capability of the project to supply that amount of water.

Such an allocation for Indian irrigation will give the tribes an advantage which they would not otherwise have were the allocation made solely on the basis of population (2 percent) or presently developed acreage (8 percent) on the reservations. Moreover, whereas such deliveries to the tribes would amount to sufficient project water when used with estimated available surface and groundwater supplies to irrigate 100 percent of their presently developed lands, non-Indians would be receiving only enough water, when used with estimated available surface and groundwater supplies, to irrigate only about one-third of their lands with a recent irrigation history. This preference is provided based on my concern for the well being of the five central Arizona tribes.

On the foregoing basis, each tribe will be entitled to the following canalside delivery of irrigation water in acre-feet annually for the first 20 years:

AK Chin	58,300
Gila River	173,100
Papago	8,000
Salt River	13,300
Fort McDowell	4,300
Total	257,000

As a further advantage to the tribes, it has been determined that the delivery of the foregoing amounts to the tribes will be on a guaranteed annual basis, whereas the irrigation water deliveries to non-Indians will fluctuate from year to year, depending on hydrologic conditions. However, because of the combination of hydrologic and other factors described earlier, it will not be possible to continue these deliveries after the year 2005. As the project is expected to be operational in 1985, this will allow for a full 20 years; but if the project is unduly delayed, the guaranteed amount may be available for less than 20 years through the year 2005.

After the year 2005, there will still be water available in some years for the irrigation of Indian and non-Indian lands after meeting municipal and industrial needs, but it will not be in such dependable annual quantities as to guarantee the delivery of water in the specific amounts determined above. However, irrigation water shall continue to be delivered to the tribes on the basis of 20 percent of the total irrigation water available each year. Under the priorities set out in the December 15, 1972, decisions, water used for municipal and industrial purposes would have priority over irrigation.[10] Since it is presently estimated that more than the dependable annual supply may be sold by the Central Arizona Water Conservation District for M&I purposes, no water would be available for delivery to the tribes for irrigation in half or more of the years from the 20th to the 50th year. To avoid such a possibility, it has been determined that at least 10 percent of all project water supply will be allocated to the tribes following the year 2005, so that the tribes will have either 20 percent of all irrigation water or 10 percent of all project water each year, whichever is to their advantage. Although this water is to be used by the tribes for irrigation, it will have the same priority as M&I water under the decisions of December 15, 1972. As such, during the years of minimum project water supply, the tribes will receive 10 percent of all project water annually for irrigation, whereas non-Indians will receive no irrigation water. In years of normal supply based on present estimates, the tribes can expect to receive from 150,000 to 200,000 acre-feet. After the year 2005, the water available for Indian agriculture use is to be prorated among them in proportion to their entitlements during the first 20 years, as follows:

	Percent
AK Chin	22.7
Gila River	67.3
Papago	3.1
Salt River	5.2
Fort McDowell	1.7
Total	100.0

Water allocated for agricultural use to each tribe by this decision is required to be used on the reservation of the tribe to which it is allocated. This restriction is consistent with Section 304 of the Basin Act. If water allocated to a tribe by this decision is used for the irrigation of Indian lands on the reservation, the capital costs of the project attributable to such water shall be either nonreimbursable or deferred, pursuant to the provisions of section 402 of the Basin Act, and contracts for Indian irrigation water service shall so provide.

The allocation of project irrigation water made to the tribes by this decision is not intended to preclude their right to contract for project M&I water like any other entity in central Arizona. So long as such water has not been contracted to other users, such contracts may be made through the Secretary of the Interior. To enable the Central Arizona Water Conservation District to proceed expeditiously to enter into contracts for project M&I water, each tribe should express to this Department, on a timely basis, its interest in receiving M&I water and the expected uses thereof. The tribes should be prepared to execute a repayment contract for M&I water with the Secretary at the same time as other M&I users contract with the conservation district.

[FR Doc.76-30424 Filed 10-15-76;8:45 am]

[10] The priority is, of course, subject to the statutory "first priority" in section 304(e) of the Basin Act, for water users who have yielded water from other sources in exchange for project water. This priority would apply to present water users voluntarily exchanging water from other sources for project water; it would not apply to persons like the Gila River Tribe, some of whose water rights may have previously been taken from them.

[Int DES 76-40]

EAST DECKER AND NORTH EXTENSION MINES, BIG HORN COUNTY, MONTANA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and to section 69-6504(b)(3) R.C.M. 1947 of the Montana Environmental Policy Act, the Department of the Interior and the Montana Department of State Lands have jointly prepared a draft environmental impact statement on the proposed surface mining of coal in the East Decker and North Extension areas in Big Horn County, Montana. The draft statement assesses the environmental impacts of the lessee's plan for the strip mining of the Federal, State, and privately owned coal and for the concurrent reclamation and revegetation of lands disturbed by mining and related activities. The proposed action in the East Decker area is on Federal coal lease Montana 073093, on State coal leases Nos. 531, 822, 823, and 918, and on fee coal owned by Gregg H. and Charles V. Pearson and by George B. Holmes. These leases and holdings include all or parts of secs. 1, 11, 12, 13, and 14, T. 9 S., R. 40 E. and secs. 7, 8, 17, and 18, T. 9 S., R. 41 E., Montana Prin. Mer. The proposed action in the North Extension area is on Federal coal leases Montana 057934, Montana 057934A, Montana 061685, and Montana 06770, and on fee coal owned by Rosebud Coal Sales Co. These leases and holdings include all or parts of secs. 33 and 34, T. 8 S., R. 40 E., and secs. 3, 4, 9, and 10, T. 9 S., R. 40 E., Montana Prin. Mer.

The draft environmental statement is available for public review in the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado 80202; the U.S. Geological Survey Library, Denver West Office Park,

Bldg. 3, 1526 Cole Blvd., Lakewood, Colorado 80225; the U.S. Geological Survey Library, Room 4A100, USGS National Center, Reston, Virginia 22092; the Montana State Library, 900 E. Lyndale, Helena, Montana 59601, the Parmly Billings Library, 510 N. Broadway, Billings, Montana, 59101; the Bighorn County Public Library, 419 N. Custer Ave., Hardin, Montana 59034; the Rosebud County Library, 201 N. 9th Ave., Forsythe, Montana 59327; and the Sheridan County Public Library, Louks and Alger Sts., Sheridan, Wyoming 82801.

A limited number of copies are available on request from the U.S. Geological Survey, Box 25046, Federal Center, Mailstop 412, Lakewood, Colorado 80225; and over the counter only from the U.S. Geological Survey Public Inquiries Office, Room 1012, Federal Building, Denver, Colorado, and from the Montana Department of State Lands, 1625 11th Ave., Helena, Montana.

Written comments on the draft environmental statement will be accepted within forty-five (45) days of this notice. All such comments will be considered during preparation of the final environmental statement.

Public hearings on the statement will be held at the following times and locations:

NOVEMBER 16, 1976

The Conference Room, Ponderosa Inn, 2511 1st Ave. North, Billings, Montana, 10:00–12:00 a.m., 1:30–5:00 p.m., and 7:00–9:00 p.m.

NOVEMBER 17, 1976

The Squirrel Creek School about half a mile northeast of Decker, Montana, 7:00–9:00 p.m.

NOVEMBER 18, 1976

The Snow Goose Room, Sheridan Center Motor Inn, 609 N. Main, Sheridan, Wyoming, 1:30–5:00 p.m. and 7:00–9:00 p.m.

Dated: October 13, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary of the Interior.

[FR Doc.76-30401 Filed 10-15-76;8:45 am]

[INT DES 76-42]

PROPOSED 230/345 KV TRANSMISSION LINE FROM OREANA, NEVADA TO HUNT, IDAHO

Availability of Draft Environmental Statement and Holding of Public Hearing Regarding

In accordance with section 102(2) (C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a draft environmental statement on a proposed 230/345 KV transmission line from Oreana, Nevada to Hunt, Idaho.

The statement addresses itself to construction of a 230/345 kilovolt (KV) transmission line of 286 to 360 miles, depending on the route selected. The proposal by Sierra Pacific Power Company of Nevada would also call for construction of a substation near Valmy, Nevada; upgrading of an existing substation; and construction of new access roads, as required, to the right-of-way.

Written comments will be accepted by the Nevada State Director; (N-911) Bureau of Land Management, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89509, until December 2, 1976.

Limited copies of this draft statement are available upon request at the above address. Copies may also be obtained by writing the Director (130), Bureau of Land Management, Department of the Interior, Washington, D.C. 20240.

Copies are available for inspection at the following locations:

Nevada State Office: Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89509.

Battle Mountain District Office: P.O. Box 194, Battle Mountain, Nevada 89820.

Carson City District Office: 801 North Plaza Street, Carson City, Nevada 89701.

Elko District Office: 2002 Idaho Street, Elko, Nevada 89801.

Winnemucca District Office: 705 East 4th Street, Winnemucca, Nevada 89445.

Idaho State Office: Room 398 Federal Building, 550 West Fort Street, P.O. Box 042, Boise, Idaho 83724.

Boise District Office: 230 Collins Road, Boise, Idaho 83702.

Burley District Office: Route 3, Box 1, Burley, Idaho 83318.

Shoshone District Office: 400 West F Street, P.O. Box 2B, Shoshone, Idaho 83352.

In addition to the above locations, reading copies are available at public libraries in Carson City, Fallon, Elko, Battle Mountain, Winnemucca, Wells, Lovelock, and Reno, Nevada; and Boise, Burley, and Twin Falls, Idaho.

A public hearing will be held beginning at 7 p.m. on November 16, 1976, at the Pioneer Motor Inn, 221 South Virginia in Reno, Nevada.

The hearing will provide the BLM, under section 102(2) (C) of the National Environmental Policy Act of 1969, with the opportunity to receive additional comments and views of interested State and local agencies and the public.

Interested individuals, representatives of organizations, and public officials wishing to testify are requested to contact Mr. Ed Tilzey, environmental team leader, BLM, Room 3008, Federal Building, 300 Booth Street, Reno, Nevada 89502 by 4:15 p.m., November 9, 1976. Requests should identify organization represented and should be signed by the prospective witness. Because of time contraints, oral testimony will be limited to 10 minutes unless additional time is requested in advance.

Oral testimony can be supplemented with written statements at the time oral testimony is presented. Also, speakers with prepared speeches may file their text with the presiding officer whether or not they have been able to finish oral delivery in the allotted time. If time permits following oral testimony by those who have given advance notice, the hearings officer will give others an opportunity to be heard.

Written comments from those unable to attend the hearing should be addressed to the BLM State Director (N-911) at the above address. The BLM will accept written testimony and comments, as well as supplemental materials until November 20, 1976.

Dated: October 15, 1976.

STANLEY D. DOREMUS,
Deputy Assistant Secretary for the Interior.

[FR Doc.76-30709 Filed 10-15-76;10:58 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

SHIPPERS ADVISORY COMMITTEE

Public Meetings

Pursuant to the provisions of section 10(a) (2) of the Federal Advisory Committee Act (86 Stat. 770), notice is hereby given of meetings of the Shippers Advisory Committee established under Marketing Order No. 905 (7 CFR Part 905). This order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida and is effective pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The committee will hold meetings on November 2 and November 9, 1976, at 10:30 a.m. in the A. B. Michael Auditorium of the Florida Citrus Mutual Building, 302 South Massachusetts Avenue, Lakeland, Florida.

The meetings will be open to the public and a brief period will be set aside at each meeting for public comments and questions. The agenda of each meeting includes analysis of current information concerning market supply and demand factors, and consideration of recommendations for regulation of shipments of the named fruits.

The names of committee members, agenda, and other information pertaining to each meeting may be obtained from Frank D. Trovillion, Manager, Growers Administrative Committee, P.O. Box R, Lakeland, Florida 33802; telephone 813-3103.

Dated: October 14, 1976.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.76-30542 Filed 10-15-76;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

HERBERT H. LEHMAN COLLEGE OF CUNY ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being

manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before November 8, 1976.

Amended regulations issued under cited Act, (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00547. Applicant: Herbert H. Lehman College of Cuny, Bedford Park Blvd. W., Bronx, New York 10468. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning plant animal, fungal and bacterial tissues embedded in epoxy resins which will be investigated to further basic knowledge of cell and tissue ultrastructure. It is hoped that the investigations will aid in the understanding of the abscission process, differentiation, host-parasite interactions and blue-green algal structure in relation to their environment. The article will also be used in the courses Electron Microscopy, Cytology and Tutorials which involve a study of the general principles on techniques and the use of the electron microscopes (transmission and scanning) to study the fine structure of cells and tissues and the employment of certain cytochemical methods to localize various enzymes. Application received by Commissioner of Customs: September 29, 1976.

Docket Number: 76-00548. Applicant: Methodist Hospital of Indiana, Inc., 1604 North Capitol Avenue, Indianapolis, Indiana 46202. Article: Electron Microscope, Model EM 201C and attachment. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for the examination of human tissues e.g., tumors and kidney biopsies, removed at surgery. The purpose of this examination will be to provide more precise classification of tumor types and diseases processes, so as to improve patient diagnosis and care. In addition, the article will be used to teach residents and medical students the theoretical and practical knowledge relating to the applications of diagnostic electron microscopy in routine surgical pathology and clinical medicine. Application received by Commissioner of Customs: September 29, 1976.

Docket Number: 76-00549. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, NM 87545. Article: Micro-Metallograph, Model MM5RT and accessories. Manufacturer: E. Leitz Inc., West Germany. Intended use of article: The article is intended to be used for the study of radiation effects, mechanical stress, the microstructural properties and parameters of materials and their relationship to temperature and other factors. Experiments on the hot cell remote microphotography of the microstructure of the materials will be conducted with the aim of improving the performance and understanding of fast breeder reactor fuel elements through the quantitative analysis of their microstructure and correlation with the reactor environment factors and variables. Application received by Commissioner of Customs: September 29, 1976.

Docket Number: 76-00550. Applicant: University of California, San Diego, M-013, La Jolla, CA 92093. Article: Optical Monitoring System for a Fluorescence Temperature-Jump Spectrophotometer. Manufacturer: Herr Hermann Brundl, West Germany. Intended use of article: The article will be coupled with existing instrumentation in order to examine fast reaction kinetics between pharmacological ligands and macromolecules by the technique of temperature-jump kinetics in conjunction with absorption and fluorescence monitoring. The article will also be used in the education of graduate students and postdoctoral fellows in the courses Medicine 293 and 299. Students specializing in molecular pharmacology will become acquainted with the instrument and techniques. Application received by Commissioner of Customs: September 29, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.76-30388 Filed 10-15-76;8:45 am]

PENNSYLVANIA MUSCLE INSTITUTE AND UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER AT HOUSTON

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before November 8, 1976.

Amended regulations issued under cited Act, (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00545. Applicant: Pennsylvania Muscle Institute, Presbyterian-University of Pennsylvania Medical Center, 51 North 39th Street, Philadelphia, Pa. 19104. Article: Electron Microscope, Model EM 400 HTG and accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of the smooth muscle in the wall of blood vessels as well as cardiac and skeletal muscles and some other invertebrate cell systems. The composition on cryo sections cells will be determined at a spatial resolution of down to approximately 20 Å units with electron probe x-ray and electron energy loss analysis. High resolution dark field and bright field structural studies will be conducted on negatively stained and unstained cryo sections through conventional means and image processing techniques of low dose electron micrographs. The effect of drugs on the fine structure and ionic composition of cells and intracellular organelles will be studied by these techniques that are designed to provide fundamental understanding of the normal processes of cell function and eventually lead to the prevention and cure of diseases of the cardiovascular system. Application received by Commissioner of Customs: September 21, 1976.

Docket Number: 76-00546. Applicant: The University of Texas Health Science Center at Houston, Medical School, P.O. Box 20708, Houston, Texas 77025. Article: Isotope Ratio Mass Spectrometer, Model 602C and accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used in the following research areas:

(1) Investigation of mechanisms of action of aldolases—to provide an understanding into the metabolism of living cells and the intricate mechanisms of their enzyme catalysts.

(2) Studies of stable isotopes in metabolism in man.

(3) Study of nutrition in man using ^{15}N—to provide a detailed insight into the various processes which govern the uptake and utilization of one of the major constituents of man's diet, protein.

In addition, the article will be used to teach the techniques of utilizing these tracers and will include extensive use by students not familiar with sophisticated instrumentation which will involve a special course, "Instrumental Methods in Medical Research." Application received by Commissioner of Customs: September 24, 1976.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-30389 Filed 10-15-76;8:45 am]

SAN DIEGO STATE UNIVERSITY FOUNDATION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scien-

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00414. Applicant: San Diego State University Foundation, 5402 College Ave., San Diego, CA 92182. Article: Infrared gas analyzer for CO_2. Manufacturer: Analytical Development Co. Ltd., United Kingdom. Intended use of article: The article is intended to be used for investigation of the flux of CO_2 through plants during photosynthesis and respiration. Experiments will be conducted to determine the elucidation of the basic photosynthetic and respiratory activities of similar vegetations with different evolutionary histories.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides capabilities for both absolute (0-500 ppm carbon dioxide-CO_2) and differential (25-0-25 ppm CO_2) analysis, high sensitivity, as well as, accurate calibration requiring only one reference gas. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated September 15, 1976 that the capabilities of the article described above are pertinent to the applicant's intended research. HEW also advises that it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended uses.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc. 76-30386 Filed 10-15-76;8:45 am]

SMITHSONIAN INSTITUTION

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00225. Applicant: Smithsonian Institution, Astrophysical Observatory, 60 Garden Street, Cambridge, Mass. 02138. Article: Multiple Mirror Telescope Mount. Manufacturer: S.P.A. Forni Ed Impianti Industriali, Italy. Intended use of article: The article is intended to be used as a major component of a large-ground-based astronomical telescope of new and unique concept utilizing six 72-inch mirrors. The mount system will support and position a telescope tube assembly (tube) and its associated optics.

Comments: No comments have been received with respect to this application. ment or apparatus of equivalent sci-

Decision: Application denied. An instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (September 19, 1973).

Reasons: The application is a resubmission of docket number 75-00565-15-80050 which was denied without prejudice to resubmission on September 12, 1975 for information deficiencies. In the letter denying the initial application without prejudice to resubmission, the applicant was asked to show clearly in what specific manner a mount fabricated by Square Tool and Machine (STM), a domestic company, would be deficient in terms of specifications pertinent to his intended purposes. In this connection, we note that the reseponse to Question 5 of this and the initial application states that the foreign article is custom-made entirely to the applicant's specifications.

In reply to Question 8 of this (and the initial) submission, the applicant alleges that the foreign article provides a tracking smoothness of ± 0.2 arcsecond at all frequencies greater than 0.01 Hertz and that this tracking smoothness is pertinent to the intended uses of the article. In attachment J to the reply to Question 8, the applicant states that the ability to satisfy the specification of a bearing interface tolerance of 0.0003 inch would achieve the required tracking smoothness. In this connection, the applicant's prime contractor, Western Development Laboratories Division, Philco-Ford Corporation (WDL), advised in attachments to its letter of July 23, 1973 that the foreign manufacturer, De Bartolomeis (DB) quoted a guaranteed flatness of 0.0008 inch with 0.0003 inch as a design goal whereas STM quoted a guaranteed flatness of 0.0005 inch.

Further, in this second submission, the applicant restates WDL's recommendation that the foreign company be awarded the contract. The applicant has modified the prime contractor's statement relative to his recommendation by underlining "technical capability" in the cited July 23, 1973, letter from Negreto of WDL. The same letter, as enclosed with the original submission, did not underline any item, but stated that the two competitors were reviewed "on their technical capability, schedule and cost responses"; it is WDL's position that a subcontract be issued to DB for the fabrication of the mount.

The applicant stated (in attachment J to Question 8), "their (WDL) past experience with STM did not lead them to believe that they could achieve the above criteria." The National Bureau of Standards (NBS) in its memorandum dated February 24, 1976 advises that it finds nothing in WDL's comments to warrant this statement. NBS points out that WDL stated in the July 23, 1973, letter that if the applicant should direct utilization of the domestic source, such direction would be added scope to the contract, and accordingly adjustment would be made to the contract estimated cost, fee, and possibly delivery schedule. NBS finds that this in no way implies that the prime contractor was of the opinion that the domestic company could not have fabricated a mount scientifically equivalent to one fabricated by the foreign company. NBS further advises that the applicant has not provided information showing clearly in what specific manner a mount fabricated by the domestic company would be deficient in terms of specifications pertinent to his intended purposes. NBS notes that in actual measured flatness results, the foreign company did not meet the flatness specifications in all respects. It sees nothing in the flatness measurements that the domestic company could not have achieved. In connection with this issue, NBS states:

> Based on (WDL's) Multiple Mirror Telescope Mount Acceptance Test Procedure (WDL'SB 235885, paragraph 2.1.6.1 Purpose and Scope, sub-paragraph 3, "The surface flatness tolerance on drawings 235115 and 235134 are a manufacturing goal. The fabrication subcontractor will finish the surfaces to a flatness of .0008 inch. The degree of flatness to which the surfaces will be reworked will be determined by (WDL) and SAO (the applicant) representatives."), we find that the manufacturing goal flatness of 0.0003 inch is not outside the capability of the domestic manufacture STM, based on the rework procedure outlined in the (WDL) document WDL-SB-235885. The specification of 0.0003 inch flatness is a manufacturing goal, not necessarily a tolerance that must be met in order to achieve the tracking smoothness specified. The possibility of considerably less rework based on the guaranteed tolerance given by STM of 0.0005 inch does exist, along with the probability of no rework at all, in order to achieve the specified tracking smoothness."

Accordingly, NBS found STM to be capable of providing an apparatus scientifically equivalent to the foreign article for the applicant's intended use. The Department notes that NBS's finding meets the criteria for domestic availability defined in § 301.11(b) of the regulations.

In view of the foregoing, we find that the apparatus available from the STM

was of equivalent scientific value to the foreign article for such purposes as the article is intended to be used at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.76-30387 Filed 10-15-76;8:45 am]

Economic Development Administration

LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Acceptance of Applications

Notice is hereby given that, pursuant to authority contained in Title I of the Public Works Employment Act of 1976 (42 U.S.C. 6701 et seq.), the Economic Development Administration (EDA) will begin accepting applications for assistance under the Local Public Works Capital Development and Investment Program on October 26, 1976.

Based upon the very large number of inquiries received by EDA from all areas of the country it is anticipated that the volume of approvable applications will at an early date exceed available appropriations. Accordingly interested applicants are encouraged to file applications as early as reasonably possible.

The completed applications should be submitted to the appropriate EDA Regional Office. The following is a list of EDA Regional Offices.

Atlantic Regional Office, William J. Green, Jr., Federal Building, 600 Arch Street, Room 10424, Philadelphia, Pennsylvania 19106.

Southeastern Regional Office, 1365 Peachtree Street, NE., Suite 700, Atlanta, Georgia 30309.

Midwestern Regional Office, 32 West Randolph Street, Room 1025, Chicago, Illinois 60601.

Southwestern Regional Office, 221 West Sixth Street, Suite 600, Austin, Texas 78701.

Rocky Mountain Regional Office, 909 17th Street, Suite 505, Denver, Colorado 80202.

Western Regional Office, 1700 West Lake Avenue, North, Suite 500, Seattle, Washington 98109.

JOHN W. EDEN,
Assistant Secretary for Economic Development.

OCTOBER 15, 1976.

[FR Doc.76-30680 Filed 10-15-76;9:08 am]

Maritime Administration

[Docket No. S-517]

MARGATE SHIPPING CO., ET AL.

Application

Notice is hereby given that an application has been filed by Keystone Shipping Co. on behalf of itself and Margate Shipping Company, Chestnut Shipping Company, Charles Kurz & Co., Inc. and Keystone Tankship Corporation (affiliates of Keystone Shipping Co.) for certain written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended. Margate Shipping Company and Chestnut Shipping Company are holders of 20-year operating-differential subsidy contracts covering the operation of bulk carriers in worldwide bulk trades. The remaining applicants are holders of short-term operating-differential subsidy contracts in the carriage of bulk commodities in the trade between the United States and the Union of Soviet Socialist Republics.

An affiliated company of the applicants proposes to arrange for the building in a U.S. shipyard of a self-unloading dry bulk carrier which will be constructed by joining the reconditioned stern of an existing U.S. flag tanker to an entirely new forebody.

The specific permission requested by this application is for (1) an affiliate of the applicants to enter into a Vessel Furnishing Agreement under which the proposed self-unloading dry bulk carrier—to be bareboat chartered by the affiliate from the owner-trustee—will be used by a U.S. citizen company to transport its dry bulk commodities between U.S. Pacific, Gulf and East Coast ports; and (2) authorization for Keystone Shipping Co. to serve as managing agent for the proposed bulk carrier.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on October 26, 1976, file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

By Order of the Assistant Secretary for Maritime Affairs.

Dated: October 14, 1976.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.76-30642 Filed 10-15-76;8:45 am]

National Oceanic and Atmospheric Administration

PUBLIC DISPLAY PERMIT

Receipt of Application

Notice is hereby given that the following Applicant has applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Audubon Park and Zoological Garden, P.O. Box 4327, New Orleans, Louisiana 20118, to take six (6) California sea lions (*Zalophus californianus*) for public display.

The requested animals will be captured by a professional collector on or near Santa Cruz or San Miguel Islands off Santa Barbara, California, with a hoop net on land or with a modified gill net in the water.

The animals will be acclimated at the collector's facility then shipped to the New Orleans facility by commercial aircraft and truck.

At the facility the sea lions will be displayed in an oval shaped pool 80 feet long, 38 feet 4 inches wide and 7 feet deep, with haul-out spaces and a 20 feet 6 inch by 9 feet by 3 feet deep salt bath pool.

The sea lions are desired to provide recreational and educational benefits to the 500,000 visitors that visit the facility annually. The facility is a non-profit organization. The Zoo director has worked with various classes of marine mammals over twelve years, with seven of the staff members having over three years experience each in the care and management of sea lions in captivity.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235 on or before November 17, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such a hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 8, 1976.

HARVEY M. HUTCHINGS,
Acting Associate Director for Resource Management, National Marine Fisheries Service.

[FR Doc.76-30432 Filed 10-15-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

AGING REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on December 2-3, 1976, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on December 2 for introductory remarks by Dr. Leroy Duncan, Jr., Chief, Adult Development and Aging Branch. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 2 from 10:00 a.m. to adjournment on December 3 for the review, discussion, and evaluation of individual initial pending, supplemental and renewal grant applications. The closed portion of the meeting will involve solely the internal expression of views and judgments of committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Suzanna Porter, Council Secretary, NIA, Building 31, Room 4B63, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-5345, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health)

Dated: October 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Offices, National Institutes of Health.

[FR Doc.76-30398 Filed 10-15-76;8:45 am]

MAMMALIAN CELL LINES COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mammalian Cell Lines Committee, National Institute of General Medical Sciences on December 3-4, 1976, 9 a.m., National Institutes of Health, Building 31, Conference Room 4. This meeting will be open to the public on December 3 from 9 a.m. to 10 a.m., for opening remarks and discussion of procedural matters and issues relevant to the Genetics Program. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 3 from 10 a.m. to 5 p.m. and December 4 from 9 a.m. to adjournment, for the review, discussion, and evaluation of National Research Service Award applications. The closed portion of the meeting involves solely the internal expression of views and judgments of Committee members on institutional applications under the National Research Service Awards Program (42 U.S.C. 482*l*-1) containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Paul Deming, Research Reports Officer, NIGMS, Westwood Building, Room 919, Bethesda, Maryland, 20014, Telephone: 301, 496-7301, will furnish summary minutes of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Michael I. Goldberg, Executive Secretary, Westwood Building, Room 910, Bethesda, Maryland, 20014, Telephone: 301, 496-7175.

(Catalog of Federal Domestic Assistance Program 13-862, General Medical Sciences—Genetics Program)

Dated: October 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Offices, National Institutes of Health.

[FR Doc.76-30400 Filed 10-15-76;8:45 am]

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

Meeting

Notice is hereby given of the symposium for minority colleges and universities sponsored by The National Heart, Lung, and Blood Institute (NHLBI) of the National Institutes of Health (NIH) and co-hosted by Dr. Alonzo Atencio of the University of New Mexico. The Symposium will take place on November 11-12, 1976 at the Airport Marina Hotel in Albuquerque, New Mexico.

Specific research areas that can be funded through NHLBI will be discussed in detail. Sessions will be held in which small groups of participants can meet with key individuals from NHLBI to discuss specific research ideas or secure general information. Administrative as well as scientific staff are encouraged to attend. Attendance by the public will be limited to space available.

Registration will begin at 7:00 p.m., Thursday, November 11, 1976. For further information, contact Ms. J. Cooke, Coordinator of Minority Affairs, National Heart, Lung, and Blood Institute, NIH, 9000 Rockville, Md. 20014, (301) 496-1763.

Dated: October 8, 1976.

SUZANNE L. FREMEAU,
Committee Management Office, National Institutes of Health.

[FR Doc.76-30397 Filed 10-15-76;8:45 am]

TEMPORARY REVIEW COMMITTEE FOR FREDERICK CANCER RESEARCH CENTER

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Temporary Review Committee for Frederick Cancer Research Center, National Cancer Institute, November 18, 1976, at the Energy Research and Development Administration, Room A410, Germantown, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to review the work scope for Research for Proposals for recompetition of the contract to operate the Frederick Cancer Research Center. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meeting and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from Dr. William W. Payne, Executive Secretary, Fort Detrick, Frederick, Maryland 21701 (301/663-7305).

Dated: October 8, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.76-30393 Filed 10-15-76;8:45 am]

TRANSPORTATION IMMUNOLOGY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Transplantation Immunology Committee, National Institute of Allergy and Infectious Diseases on November 29, 1976 at the National Institutes of Health, in the Westwood Building, Room 737, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to adjournment to review the programs of the Institute relating to transplantation immunology. Attendance by the public will be limited to space available.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAID, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496-5717, will furnish rosters of committee members, summaries of the meetings, and

other information pertaining to the meetings.

(Catalog of Federal Domestic Assistance Program No. 13.855, National Institutes of Health.)

Dated: October 12, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-30399 Filed 10-15-76;8:45 am]

VIRUS CANCER PROGRAM ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Virus Cancer Program Advisory Committee, Viral Oncology Program, Division of Cancer Cause and Prevention, National Cancer Institute, November 11,.1976, at Hershey, Pennsylvania, which was published in the FEDERAL REGISTER on September 10, 1976 (41 FR 38541).

Dated: October 12, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.30395 Filed 10-15-76;8:45 am]

VISION RESEARCH PROGRAM COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Program Committee, National Eye Institute on November 18-19, 1976, Building 31, Conference Room No. 8, the National Institutes of Health, Bethesda, Maryland, convening at 8:30 a.m.

This meeting will be open to the public from 8:30 a.m. until 2:00 p.m. on November 18 for discussion of Program Planning—Training Subcommittee, Manual of Operations—Clinical Trials, Workshops, and the Administrative Report. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 2:00 p.m. until adjournment on November 19, for the review, discussion, and evaluation of the individual initial pending grant applications. The closed portion of the meeting involves solely the internal expression of views and judgments of committee members on individual grant applications containing information of a proprietary or confidential nature including detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Head, Scientific Reports and Program Planning Coordination, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, Room 6A-27, telephone (301) 496-5248, will furnish summaries of the meeting and rosters of committee members.

Substantive program information may also be obtained from Dr. Wilford L. Nusser, Chief, Scientific Programs Branch, Extramural and Collaborative Programs, National Eye Institute, National Institutes of Health, Bethesda, Maryland 20014, Building 31, Room 6A-52, telephone (301) 496-5301.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health.)

Dated: October 7, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-30390 Filed 10-15-76;8:45 am]

WORKSHOP ON DNA REPAIR AND CARCINOGENESIS

Meeting

Notice is hereby given of the Workshop on DNA Repair and Carcinogenesis sponsored by the Division of Cancer Research Resources and Centers, National Cancer Institute, December 8-10, 1976, 480 King Street, Alexandria, Virginia, Old Town Holiday Inn, Snowden I-III conference room.

This meeting will be open to the public on December 8 from 8:00 p.m. to 9:00 p.m., on December 9 from 9:00 a.m. to 5:00 p.m., and on December 10 from 9:00 a.m. to 12:00 noon to discuss the mechanisms of DNA repair with emphasis on mammalian cells and the role of DNA repair in chemical and radiation carcinogenesis, and to identify associated research areas which may be ready for significant further exploration. Attendance by the public will be limited to space available.

Dr. Thaddeus J. Domanski, Chief, Cause and Prevention Branch, Division of Cancer Research Resources and Centers, National Cancer Institute, Westwood Building, Room 850, 5333 Westbard Avenue, Bethesda, Maryland 20014, Telephone Number (Area Code, 301) 496-7801, will provide additional information.

Dated: October 8, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-30392 Filed 10-15-76;8:45 am]

WORKSHOP ON THE REVIEW OF THE FIELD OF IMMUNOLOGY FOR APPLICATION TO CANCER CAUSE AND PREVENTION

Second Meeting

Notice is hereby given of the Second Meeting of the Workshop on the Review of the Field of Immunology for Application to Cancer Cause and Prevention sponsored by National Cancer Institute, Division of Cancer Biology and Diagnosis, to be held November 4-5, 1976, in the Blair Building, Silver Spring, Maryland, conference room 110. The entire meeting will be open to the public, convening at 9:00 p.m. until 11:30 p.m. on November 4, 1976, and 8:30 a.m. until adjournment on November 5, 1976.

This meeting will review and discuss potential applications of immunology to studies of cancer cause and prevention, and to provide program guidance for an expanded effort in this field. Attendance by the public will be limited to space available.

For additional information, please contact: Dr. George M. Steinberg, Building 10, Room 4B-09, National Institutes of Health, Bethesda, Maryland, 20014 (phone: 301/496-1791).

Dated: October 8, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-30394 Filed 10-15-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. D-76-464]

DEPUTY ASSISTANT SECRETARY FOR ADMINISTRATION

Designation and Delegation

SECTION A. *Designation.* The Deputy Assistant Secretary for Administration is designated the Departmental Acquisition Executive for implementing the policies and procedures set forth under the Office of Management and Budget Circular A-109, Major System Acquisitions.

SEC. B. *Authority Delegated.* The Departmental Acquisition Executive is authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to all matters and requirements of the Office of Management and Budget Circular A-109 which include the following:

1. Integrating and unifying the management process for the agency's major systems acquisitions and

2. Monitoring the implementation of the policies articulated in OMB Circular A-109.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

Effective date: This designation and delegation of authority shall be effective on October 18, 1976.

JOHN B. RHINELANDER,
Under Secretary, Department of Housing and Urban Development.

[FR Doc.76-30414 Filed 10-15-76;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP76-8; Notice 2]

CHRYSLER CORP.

Petition for Exemption From Notice and Recall for Inconsequential Noncompliance

This notice denies the petition by Chrysler Corporation of Detroit, Michigan, to be exempted from the notification and recall requirements of the Na-

tional Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.-110. Motor Vehicle Safety Standard No. 110, Tire Selection and Rims-Passenger Cars, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on June 24, 1976 (41 FR 26062) and an opportunity afforded for comment.

§ 4.3(c) of Standard No. 110 requires that the informational placard affixed to the glove box door or an equally accessible location must display the vehicle manufacturer's recommended cold tire inflation pressure at maximum loaded vehicle weight. The manufacturer's actual recommended pressure for front tires on 1976 Plymouth Volare and Dodge Aspen station wagons equipped with air conditioning and F78–14 or FR78–14 tires is 26 psi, representing a 2 psi margin of added safety, according to the company. However, on 17,500 wagons built from November 1975 through the middle of February 1976, the pressure was given as 22 psi. The same error exists in the company's information furnished pursuant to 49 CFR Part 575. Chrysler's arguments that the error is inconsequential may be summarized as follows. The first was that the design overload is minimal and theoretical, occurring only if a particular vehicle is equipped with all available accessory options and all designated seating positions are occupied. When these two conditions occur, six-cylinder wagon tires will be overloaded by 25 pounds, and eight-cylinder wagon tires by 45 pounds, differentials that may be eliminated by raising the pressure 1 and 2 pounds respectively.

Chrysler's second argument was that the actual overload condition on vehicles as built and operated is minimal both in magnitude and frequency of occurrences. The company calculates that only 15.3 percent of the 17,500 wagons might be affected when a front tire pressure of 22 psi is maintained. Finally the company argues that its vehicle endurance testing has shown that an actual overload condition has no adverse effect on the safe operation of the vehicle or tires. The company tested 9 Aspen and Volare wagons at 22 psi for over 144,000 endurance test miles (4,800 to 50,000 miles per vehicle) with 20 percent of the test mileage for each vehicle accumulated while operating at "maximum loaded vehicle weight" conditions. Tires were overloaded on four of the wagons at values ranging from 1 to 31 pounds. No tire failures were recorded nor reports received of abnormal vehicle handling.

No comments were received on the petition.

In its presentation Chrysler has sought to convince the agency that its noncompliance is inconsequential primarily on the basis of tests conducted in an actual overload condition on which no tire failures or abnormal handling was reported. Each vehicle was run from 960 miles to 10,000 miles under "maximum loaded vehicle weight conditions", with the tire pressure at 22 psi. The agency assumes that the mileage under maximum load was accumulated at random with each vehicle. The tested mileage at maximum loaded weight constitutes approximately 25 to 35 per cent of the expected mileage from the original equipment tires. It does not appear from the file that any of test mileage at maximum weight was accumulated on tires near the end of their useful life, in which the sidewalls may be weaker and present a greater hazard when overloaded than newer tires. The information provided by the placard, after all, applies throughout the life of the vehicles and any F78–14 or FR78–14 tires with which it is equipped. The NHTSA has concluded that it is important for vehicle operators to be correctly informed of the performance characteristics of vehicles. Even though overload differentials may be eliminated by raising tire pressure 1 and 2 pounds, the owner of the vehicle will be unaware of this compensatory factor unless notified. There appears to be very little margin to spare as Chrysler reports the minimum tire reserve load of the vehicles in question is less than 1 percent. Chrysler Corp. has not met its burden of convincing this agency that these noncompliances are inconsequential as they relate to motor vehicle safety, and its petition is hereby denied.

However, it does appear that the scope of the notification campaign may be narrower than the 17,500 wagons equipped with the placards in question. Since Chrysler as a matter of convenience installed the placard on vehicles equipped with less than the full amount of production options, motor vehicle safety would be served by requiring notification only of the 15.3 per cent—2,678 units—that it considers affected. Remedy costs appear minimal; adhesive placards, to be applied by the owner, could be furnished in the notification letter.

(Sec. 3, Pub. L. 92–548, 88 Stat. 1159 (15 U.S.C. 1410); delegations of authorly at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 8, 1976.

ROBERT L. CARTER,
Associate Administrator
Motor Vehicle Program.

[FR Doc.76-30329 Filed 10-15-76;8:45 am]

CHRYSLER CORP., ET AL.

Denials of Petitions To Commence Rulemaking

This notice sets forth the reasons for denial of seven petitions for rulemaking to initiate or amend Federal motor vehicle safety standards promulgated under authority of § 103 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391 et seq.). This notice is published in accordance with § 124 of the Act, which provides that the National Highway Traffic Safety Administration must grant or deny such petitions within 120 days, and "If the Secretary denies such petition he shall publish in the FEDERAL REGISTER his reasons for such denial" (§ 124(d)).

Chrysler Corporation (November 25, 1975). Petition to amend Standard No. 301–75, Fuel System Integrity, to permit the removal of trailer hitches before testing a vehicle for compliance with the rear moving barrier crash requirements. Chrysler's petition was denied because the agency concluded that the level of protection provided by Standard No. 301–75 should be met in all vehicles subject to the standard with whatever optional equipment is installed on the vehicle at the time of sale.

Truck Equipment & Body Distributors Association (TEBDA) and Stahl Metal Products (August 24, 1976). Petitions to delay the effective date of Standard No. 301–75, Fuel System Integrity, as it applies to vehicles manufactured in two or more stages "and the intermediate and final-stage manufacturers thereof" for up to six months. TEBDA's and Stahl's petitions were denied because § 108(a) of the Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93–492, 15 U.S.C. 1392 note) ratifies the fuel system integrity standard as it appears at 39 FR 10588–10599 (March 21, 1974), specifying that the standard "shall take effect on the dates prescribed in such standard (as so published)." Also, § 108(b) limits amendment to the standard to amendments that correct "technical errors and amendments (or repeal) that will not diminish the level of motor vehicle safety."

Vincent J. Walter (July 4, 1976). Petition to amend Standard No. 108, Lamps, Reflective Devices, and Associated Equipment, to require "a multi-yellow-amber front combinational (sic) run and turn signal lamp." Mr. Walter's petition was denied for lack of any substantiating data showing a need for a daytime running light of the configuration proposed, or that the proposed light would have a beneficial effect upon highway safety.

Motor Vehicle Manufacturers Association (June 16, 1976), Volkswagen of America (July 12, 1976), and BMW of America (August 9, 1976). Petitions to amend Standard No. 115, Vehicle Identification Number, to incorporate the system of the International Standards Organization (ISO) for the assignment of meaning to the characters of a vehicle identification number (VIN) and their arrangement within the VIN. The petitions were denied because the ISO system permits a variable length VIN that could reduce transcription accuracy.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); Sec. 108 Pub. L. 93–492, 88 Stat. 1482 (15 U.S.C. 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 12, 1976.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.76-30330 Filed 10-15-76;8:45 am]

YOUTH HIGHWAY SAFETY ADVISORY COMMITTEE

Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Youth Highway Safety Advisory Committee to be held on November 6, 1976 from 9:00 a.m. to 5:00 p.m. and November 7, 1976 from 9:00 a.m. to 12:00 noon at The Radisson Hotel, 1790 Grant Street, Denver, Colorado.

The agenda for this meeting is as follows:

Briefing on Multi-Year Plan (Youth Programs.)
Review Draft of "How To Do Manual."
Reports on Proposed Resolutions.
Report on Resolution re: Youth Highway Safety. Group for Each State.
Regional Reports.
Presentation on Colorado's Youth Group.
Presentation by Coordinator of Arizona's Youth Group.
Presentation on National Safety Council's youth related programs.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting.

For further information, contact Wm. H. Marsh, Executive Secretary, Room 5215, 400 Seventh Street SW., Washington, D.C., telephone 202-426-2872.

Any member of the public may present a written statement to the Committee at any time.

The Committee is composed of persons appointed by the National Highway Traffic Safety Administrator to consult with and advise him concerning programs and activities to attract and sustain the participation of young people in the national effort to combat highway deaths and injuries.

Issued in Washington, D.C. on October 7, 1976.

WM. H. MARSH,
Executive Secretary.

[FR Doc.76-30425 Filed 10-15-76;8:45 am]

CIVIL AERONAUTICS BOARD

ASPEN AIRWAYS, INC.

Meeting

Notice is hereby given that a presentation will be made by Aspen Airways, Inc., on Thursday, October 21, 1976, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., regarding air service problems that are and will be developing in the Rocky Mountain area during the next several years.

Dated at Washington, D.C., October 13, 1976.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-30624 Filed 10-15-76;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF KOREA

Announcing Denial of Entry of Certain Man-Made Fiber Sweaters

OCTOBER 15, 1976.

On June 26, 1975, the Government of the United States, in furtherance of the objectives of, and under the terms of, the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, concluded a comprehensive bilateral cotton, wool and man-made fiber textile agreement with the Government of the Republic of Korea concerning exports of cotton, wool and man-made fiber textile products from Korea to the United States over a three-year period beginning on October 1, 1974. The agreement was amended by an exchange of notes between the two governments dated March 24 and April 1, 1976.

The Committee for the Implementation of Textile Agreements has determined that exports of man-made fiber textile products in Category 221 (sweaters and cardigans) have been authorized by the Republic of Korea in quantities substantially in excess of the level of restraint established for those goods during the agreement year which began on October 1, 1975. Entry of these shipments in the agreement year which began on October 1, 1976, in addition to exports authorized in the current year, threaten disruption of the domestic market. Consultations with the Government of the Republic of Korea are to begin in the near future. The letter published below is subject to termination or revision as a result of those consultations which will include discussion of the possible entry of the textile products affected by that letter.

Accordingly, there is published below a letter of October 15, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that, effective on October 18, 1976, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 221, productd or manufactured in the Republic of Korea and exported therefrom to the United States during the period beginning October 1, 1975 and extending through September 30, 1976, be prohibited.

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, Department of Commerce.

OCTOBER 15, 1976.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on October 18, 1976 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 221, produced or manufactured in the Republic of Korea and which have been exported to the United States during the twelve-month period which began on October 1, 1975 and extended through September 30, 1976.

Man-Made fiber textile products in Category 221 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Category 221 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 F.R. 5010), as amended on December 31, 1975 (40 F.R. 60229).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Acting Chairman, Committee for the Implementation of Textile Agreements, and Acting Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.76-30717 Filed 10-15-76;12:02 pm]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Receipt of Summary

Environmental impact statements received by the Council on Environmental Quality from October 4 through October 8, 1976. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (November 29, 1976.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost, from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Coordinator of Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250 (202) 447-3965.

FOREST SERVICE

Draft

South Slope Unit, Chattahoochee-Oconee National Forest, several counties in Georgia, October 5: Proposed is the implementation of a 10-year management plan for 129,000 acres of National Forest land in the South Slope Unit, Chattahoochee National Forest, located within Dawson, Fannin, Habersham, Lumpkin, Towns, Union, and White Counties, Georgia. The Unit plan discusses the resources of the area (i.e., soils, water, geology, timber, wildlife, etc.) and the related management actions which are directed to meet public needs while respecting the production capabilities of the National Forest. Adverse effects include temporary soil movement, impacts caused by logging activities, road and rail construction, and disturbance by off-road vehicles (270 pages). (ELR Order No. 61459.)

Final

Blacktail Unit Plan, Kaniksu National Forest, Bonner and Kootenai Counties, Idaho, October 4: Proposed is the implementation of a land use plan for the Blacktail Planning Unit, Kaniksu National Forest. The proposed plan would allocate resources and specify land use prescriptions for only the 21,890 acres of National Forest land. Project implementation would cause a decrease in the small amount of lands that could be managed for primitive or back country recreation and a decrease in recreation solitude opportunities (283 pages). Comments made by: COE, EPA, DOI, State and local agencies, and concerned citizens. (ELR order No. 61450.)

Big Swede-Pipe Units, Kootenai National Forest, Lincoln County, Mont., October 4: The action involves the implementation of a revised multiple use plan for the 142,135 acre Big Swede-Pipe Planning Unit of Kootenai National Forest. The plan provides for fewer acres to be allotted to timber production, but an increase in long term yields through more intensive management of these acres allocated to production of wood products. Continued developmental activity will result in soil and vegetative disturbance. Areas which are currently unroaded will be developed and the natural condition of the Forest will be affected (220 pages). Comments made by: COE, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 61453.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Merom Generating Station and Associated Transmission, Sullivan County, Ind., October 4: Proposed is the granting of loan guarantees to the Hoosier Energy Division of Indiana Statewide R.E.C., Inc. to construct and operate a 980 MW (2—490 MW units) coal fired, steam electric generating station. Associated with the generating station is a dam and reservoir on Turtle Creek with a reservoir surface area of 1,550 acres at normal elevation 470, and an intake structure on the Wabash River. A 345 kV transmission line from Merom to Worthington will be required in conjunction with the operation of the first unit, scheduled for 1980. Adverse effects include release of some oxides of sulfur and nitrogen, along with a small amount of particulate matter (800 pages). (ELR Order No. 61454.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-967-4335.

ECONOMIC DEVELOPMENT ADMINISTRATION

Draft

1980 Olympic Games, Lake Placid, Essex County, N.Y., October 7: This statement relates to the 1980 Olympic Games, proposed to be conducted in February 1980 in the Village of Lake Placid and the towns of North Elba and Wilmington, and vicinity. The Proposed Action consists of two levels of activity attendant to the 1980 Olympics. The first level is the Overall Program, which includes scheduling of specific events, support activities, attendance estimates, and housing. The second level consists of the specific facilities to be constructed or utilized to accommodate Olympic-related activity. Facilities provided for the 1980 Winter Games will thereafter serve as a winter sports training center for U.S. athletes (500 pages). (ELR Order No. 61439.)

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Coastal Energy Impact Program, Rules and Regulations, October 8: The proposed action consists of promulgating rules and regulations governing administration of the Coastal Energy Impact Program (CEIP) established by Section 308 of the Coastal Zone Management Act as amended. The CEIP provides financial assistance to meet the needs of coastal states and local communities resulting from specified activities, and improves the decision-making process for managing the social, economic, and environmental consequences resulting from coastal energy activity. Adverse impacts will be localized, and will be limited to those associated with actual operation of public facilities to be financed under 308 (b) and (d) (50 pages). (ELR Order No. 61473.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Cape Cod Canal, Bourne and Sandwich, operation and maintenance, Bourne County, Mass., October 4: Proposed is the maintenance and operation of the Cape Cod Canal, including intermittent dredging of the main channel, mooring basins, and boat basins. In addition, the project includes maintenance and operation of a breakwater, a jetty, a railroad bridge, two highway bridges, three dikes, maintenance and administrative buildings, floating plant, electronic traffic control system, and service roads and recreation areas. This project would allow for continued safe navigation by commercial and recreational vessels. Permanent elimination of some benthic habitats is anticipated (New England Division) (100 pages). (ELR Order No. 61447.)

Great Egg Harbor Inlet and Peck Beach, Dredging, Cape May County, N.J., October 4: Proposed is a maintenance and dredging project at Great Egg Harbor Inlet and Peck Beach, in Cape May County, New Jersey. The plan includes jetty construction, dredging and maintaining a navigation channel, placement of beachfill, maintenance of 11 existing groins and periodic beach nourishment, all designed to increase safety and meet recreational demands. The most significant adverse impact will be caused by dredging for initial beachfill at an offshore site, creating sediment suspension and thereby altering the benthic community and degrading the water quality (Philadelphia District) (210 pages). (ELR Order No. 61444.)

Little River Inlet Navigation Project, North Carolina and South Carolina, (2), North Carolina and South Carolina, October 4: The proposed project pertains to the Little River Inlet Navigation Project, Brunswick County, North Carolina, and Horry County, South Carolina. The recommended plan of improvement calls for: dredging an entrance channel to the Atlantic Intracoastal Waterway, dredging upcoast and downcoast deposition basins, constructing north and south jetties, and contructing sand dunes on both sides of the inlet. Adverse effects include alteration of existing vegetation, and possible displacement of wildlife species (Charleston District) (95 pages). (ELR Order No. 61445.)

Final

McKinney Bayou, Arkansas and Texas, October 5: The proposed project involves the construction of 2 major outlet channels to the Red River, with related control works, channel enlargement of 15.6 miles of McKinney Bayou, and interior drainage improvements. The project will provide flood protection and/or improved drainage to 41,600 acres of cleared land. Counties affected are Miller in Arkansas and Bowie in Texas. As a result of the project 3,600 acres of bottom forest will be cleared for agricultural production, with adverse impact to wildlife and fish resources (104 pages). Comments made by: DOI, USDA, HEW, FPC, EPA, State and local agencies, and concerned citizens. (ELR Order No. 61457.)

Little Calumet River Basin, Flood Protection, Indiana, October 5: The recommended plan will provide protection from flooding along the Little Calumet River, Indiana and provide recreation for the area. The flood protection will be provided through main stem channel alterations (widening and deepening) and levees. A total of 2,500 acres of recreational space will be provided and 3 low dams will be constructed in the channel to impound water to maintain a higher water table. Limited destruction of wetlands will occur in the path of the widened river and corridor (Chicago District) 190 pages). Comments made by: ---------- (ELR Order No. 61460.)

West Agurs Levee, Red River Below Denison Dam, Caddo County, La., October 5: The proposed action involves the construction of 232 wells along the levee at Twelvemile Bayou, in order to insure the integrity of the structure at high-water levels. Wells measuring 20 feet wide and 22 feet deep will occur at 50-foot intervals along the borrow pit. The project will insure continued protection for about 700 acres of the West Agurs from overflows from Red River backwater and headwater floods originating in the Cypress Creek-Twelvemile Bayou Basin. Approximately 600 cu. yards of material will be removed and spread on the levee (New Orleans District) (30 pages). Comments made by: DOI, USDA, EPA, DOT, HEW, State and local agencies, and concerned citizens. (ELR Order No. 61456.)

Minnesota River Flood Control, Chaska, Minn., October 5: The statement proposes the upgrading and extending of an existing levee along the Minnesota River; diverting total flows of Chaska Creek to the outside of the leveed area; diverting flood flows of East Creek to the outside of the leveed area, and constructing interior drainage facilities.

Adverse impacts are the removal of 6 mobile homes and 7 houses, the possible disruption of up to 268 acres of land, and increased danger of damage by a greater than intermediate regional flood due to development and redevelopment of the area (St. Paul District) (135 pages). Comments made by: EPA, DOI, USDA, USCG, DOT, State and local agencies, and concerned citizens. (ELR Order No. 61461.)

Park River Flood Control, Grafton, Pembina County, N. Dak., October 5: The statement proposes the construction of a levee surrounding Grafton, North Dakota, and vicinity, and the construction of a channel which would allow flood water to bypass the leveed area. Interior drainage facilities would be included. Adverse impacts include: the loss of 5 acres of floodplain forest, 230 acres of highly fertile agricultural land, and another 130 acres of land for spoil disposal; reduction of biological productivity along the bypassed river channel; and, the disruption of 0.1 miles of natural river channel (St. Paul District) (170 pages). Comments made by: EPA, USDA, DOT, DOI, HEW, State and local agencies, and concerned citizens. (ELR Order No. 61458.)

Supplement

Lower Columbia R. Bank Project (S-2), Washington, Oregon, October 6: Proposed is the construction of 61,779 linear feet (approximately 12 miles) of bank protection works at 38 sites on the Columbia River, along channels in its flood plain, and on lower reaches of its major tributaries. Most of the works to be constructed under project authorization will be revetments of dumped stone (riprap) to protect existing levees from bank erosion. Adverse effects include loss of shoreline habitat for fish and wildlife, temporary erosion, and reduced access to river for recreation (Portland district) (300 pages). (ELR Order No. 61463.)

ENVIRONMENTAL PROTECTION AGENCY

For EPA Contact, please refer to the Environmental Protection Agency notice in this issue of the FEDERAL REGISTER.

Draft

Kraft Pulp Mills, Performance Standards, October 5: This statement outlines standards of performance and monitoring requirements for new and modified Kraft pulp mills, proposed under the authority of section 111 of the Clean Air Act. Emissions of particulate matter will be controlled in the recovery furnace, the smelt dissolving tank, and the lime kiln. Emissions of total reduced sulfur (TRS) will also be controlled in the aforementioned facilities as well as in the digester system, the brown stock washers, the multiple effect evaporators, and the black liquor oxidation system. Minor adverse impacts on water supply are expected (386 pages). (ELR Order No. 61455.)

Geo. Neal Steam Electric Gen. Sta., Neal Unit 4, Woodbury County, Iowa, October 6: Proposed is the granting of a new source National Pollutant Discharge Elimination System to the Iowa Public Service Company of Sioux City, Iowa, for the operation of a 576 megawatt coal-fired steam-electric generating facility adjacent to the Missouri River. The station is located approximately 14 miles south of Sioux City, Iowa. The power plant will convert approximately 450 acres of agricultural land and wildlife habitat to industrial use. Combustion for power generation will result in the release of waste by-products into the atmosphere and heated discharge water into the Missouri River (Region VII) (400 pages). (ELR Order No. 61468.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6303.

Final

Woodmere Subdivision, Marrero, Jefferson County, Louisiana, October 6: The statement concerns the mortgage insurance application for the Woodmere Subdivision located near the City of Marrero on the west side of the Mississippi River. The project consists of 2,500 detached family dwellings and 1,600 multifamily housing units and when fully developed will house 12,000 persons. The major adverse impacts will be the destruction of the existing character of 850 acres of woodlands, swamps, and marshes and the elimination of the existing vegetation and its associated wildlife populations. Other impacts include increased energy usage, and increased solids and liquid waste disposal (135 pages). Comments made by: HEW, AHP, EPA, DOT, USDA, COE, DOI, State and local agencies concerned citizens. (ELR Order No. 61467.)

Rochester SE Loop Urban Renewal No. 175, Monroe County, New York, October 4: The proposed urban renewal project for the Rochester South East Loop area includes the demolition of structures, the provision of public improvements, and the institution of land use controls for the area. However, of the 3,100 residential units planned for the project, the NY Urban Development Corporation, now bankrupt, was committed to building over 2,000 of them, and thus far based on present commitments and completed structures, only 750 units will be completed. Serious adverse impacts could result from the non-completion of replacement housing for the demolished structures (215 pages). Comments made by: DOT, DOI, EPA, State and local agencies concerned citizens. (ELR Order No. 61451.)

S.W. Mesquite Drainage Project, Dallas County, Texas, October 6: This statement refers to a multi-purpose drainage project to serve the southwest Mesquite area. The project will occupy 30 acres and will have a storage capacity of 4.877 million cubic feet of urban run-off water generated from a drainage area of 418 acres based on 100 hours. Adverse impacts include increased construction noise, temporary disruption of the environment, and some inconvenience to citizens in the area (270 pages). Comments made by: USDA, COE, DOI, EPA, State and local agencies, concerned citizens. (ELR Order No. 61466.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

SECTION 104(H)

Draft

Union Community Water System, Greene County, Alabama, October 4: The proposed project consists of a water supply system designed to serve the most heavily populated and developed rural areas of north Greene County, Alabama. This project forms the core of the proposed Union-Sneddy-Mantua Water System. The proposed system calls for construction of mains of 6" and 3" in the rights-of-way of existing roadways. Also, various sized smaller lines are proposed for the distribution system, all to be located in road rights-of-way. A standpipe storage reservoir of approximately 100,000 gallons would be necessary for a two day supply with an allowance of 100% for growth. Few adverse effects are anticipated (50 pages). (ELR Order No. 61452.)

Final

Edenvale 11th Addition, Eden Prairie, Hennepin County, Minnesota, October 4: Proposed is the provision by HUD of mortgage insurance for the Evansdale Planned Unit Development, located in north-central Eden Prairie, Minnesota. The 1,000-acre project will consist of 4,000 units, for single family homes and multifamily housing projects. Major adverse impacts are destruction of some wildlife, loss of agricultural land, and increased traffic congestion, air pollution and noise (242 pages). Comments made by: DOI, GSA, AHP, COE, EPA, DOT. (ELR Order No. 61446.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF RECLAMATION

Draft

Missouri R. Reservoirs, Water for Energy, October 8: This statement proposes to make available for energy related industrial purposes up to 1.0 million acre feet of water annually from mainstem Missouri River reservoirs. The anticipated areas of water use include eastern Montana, western North Dakota, parts of western and central South Dakota, and northeastern Wyoming. Water service contracts would be issued for 40 years or less, with water delivery terminating no later than the year 2035. Impacts caused by the depletion of 1 million acre-feet of water on the mainstem are insignificant and can be minimized by modifications of existing reservoir operations (433 pages). (ELR Order No. 61471.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Benard Rancke, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Supplement

Floating and land-based nuclear plants, comparative, October 8: This statement supplements a final EIS filed in September, 1976, and covers, on a generic basis, the comparative risks and consequences between floating nuclear plants and landbased nuclear plants associated with the accidental release of radioactive material to the aqueous environment. The statement principally assesses radiation dose to man and fish, and long-term effects, such as genetic effects and undesirable modifications of ecosystems. Consequences to man are calculated in terms of radiation dose from each pathway, including drinking water, fish consumption, swimming, and beach use. (187 pages.) (ELR Order No. 61472.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Peter Krenkel, Director of Environmental Planning, 720 Edney Building, Chattanooga, Tennessee 37401, 615-755-2002.

Final

Policies relating to electric power rates, October 4: This statement discusses TVA's policies relating to the making of electric power rates in effect throughout the Tennessee valley region and parts of Alabama, Georgia, Kentucky, Mississippi, North Carolina, and Virginia. TVA proposes to continue to follow its basic long-run policies of providing an ample supply of electric power at rates which reflect as nearly as practicable the price of providing power to each class of consumers. The statement indicates no adverse environmental effects. (600 pages.) Comments made by: HUD, DOT, FEA, DOI, ERDA, EPA, COE, state and local agencies, (ELR Order No. 61448.) concerned citizens.

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Wm. B. Hartsfield, Atlanta International Airport, Georgia, October 7: Proposed is the construction of a new central air passenger terminal complex at William B. Hartsfield Atlanta International Airport, in Atlanta, Georgia. The new facilities will be located between the existing 3 east-west parallel runways and will include aircraft parking area, taxiways, terminal buildings, and access roadways. Although a temporary increase in stream sedimentation will occur, no major environmental impacts are expected to result from the project. (108 pages.) (ELR Order No. 61469.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Long Beach Freeway (CA-7), Route 10-Route 210, Los Angeles County, Calif., October 4: The proposed project consists of that portion of the Long Beach Freeway, Route 7, from the San Bernardino Freeway, Interstate Route 10, to the Foothill Freeway, Interstate Route 210, and includes an interchange with the existing Pasadena Freeway, Route 11. The project passes through the Cities of Alhambra, Los Angeles, South Pasadena and Pasadena. As proposed, the project would be a controlled access highway or freeway approximately 6.1 to 7.3 miles in length, subject to the corridor and the variation. Adverse effects include loss of 4,670 to 5,560 residents, commitment of 279-418 acres of land, and removal of 7,000-9,100 mature trees. (Region 9.) (555 pages.) (ELR Order No. 61443.)

U.S. 27 and KY-151, Southern RR. bridge to Alton, Anderson, and Franklin Counties Ky., October 5: Proposed is a replacement for the existing road from the Southern Railroad Bridge, northwest of Lawrenceburg, to U.S. 127, east of Alton, Kentucky. The 2-lane (ultimately 4-lane) roadway will extend from the bridge to I-64 at the KY-151 interchange, a distance of 6.9 miles, and then to U.S. 127 one mile from Alton, a distance of 1.75 miles. A grade separated interchange at the route junction and a 40 feet depressed grass median are included in the project. Negative impacts include removal of one business, eight residences, and four farm buildings, and obtaining of sixty-six right-of-way parcels. (Region 4.) (101 pages.) (ELR Order No. 61462.)

Final

March Lane Expressway, El Dorado St. to West Lane, San Joaquin County, Calif., October 4: This project proposes the ultimate construction of a full four-lane divided expressway which will be an integral part of a tie-between I-5 and S.H. 99. The initial construction would be limited to 2 lanes between El Dorado Street and West Lane in the area of Stockton, California. The 0.88-mile segment will extend March Lane Expressway eastward to I-5 and S.H. 99. Adverse effects will be an increase in sound levels and an injection of additional air pollutants into the area adjacent to the roadway. (Region 9.) (102 pages.) Comments made by: EPA, DOT, DOI, HEW, USDA, state and local agencies, concerned citizens. (ELR Order No. 61449.)

Grove St., Lewis to Elm, Sedgwick County, Kans., October 7: Proposed is the construction of a divided four-lane arterial in Wichita, Sedgwick County, Kansas. The project consists of an improvement of Grove Street from Lewis Street, north to Elm Street, a distance of approximately 1.1 miles. Adverse effects include the acquisition of from 70 to 145 dwelling units and from 10 to 14 businesses, depending on the alternate chosen. Project implementation would also result in increased noise levels, and the removal of a number of mature trees. (Region 7.) (158 pages.) Comments made by: USDA, OEO, EPA, DOI, USCG, state and local agencies, concerned citizens. (ELR Order No. 61470.)

U.S. Highway 6—114th St. to 156th St., Douglas County, Nebr., October 6: Proposed is the reconstruction of West Dodge Road, a 4.1-mile segment of U.S. Highway 6 in Omaha. The project begins at the intersection of 114th St. and West Dodge Road and proceeds westerly, terminating 3,250 feet west of the intersection of West Dodge Road and 156th Street. The 4-lane divided highway will have curbed shoulders, and interchanges at the intersection of West Dodge and 120th, 132nd, and 156th Streets. Approximately 30 acres of right of way will be required for construction, as well as acquisition of 4 homes, 3 service stations, 3 motels, 6 mobile homes, 1 cafe and 3 businesses. Increases in air and noise pollution are expected. (Region 7.) (110 pages.) Comments made by: DOT, COE, USDA, HUD, DOI, EPA. (ELR Order No. 61464.)

Supplement

S.T.H. 23, Jct. C.S.A.H. 24-Jct. S.T.H. 212, several counties in Minnesota, October 6: This statement supplements a final EIS filed with CEQ in August 1972. The proposed action is the improvement of a 33-mile segment of Minnesota State Highway 23 from Cottonwood to Clara City. The supplement indicates the need for channel changes on four crossing areas of Hazel Creek and the Yellow Medicine River in order to increase hydraulic efficiency, reduce streambank and erosion, and reduce construction costs. The Yellow Medicine River channel change will isolate 1-2 acres of flood plain cropland without access. (Region 5.) (28 pages.) (ELR Order No. 61465.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.76-30410 Filed 10-15-76;8:45 am]

ENVIRONMENTAL SURVEY OF THE REPROCESSING AND WASTE MANAGEMENT PORTION OF THE LWR FUEL CYCLE

Supplement 1, to WASH-1248

The referenced document is not an environmental impact statement, but is a document prepared by the NRC which may be referenced and relied upon in statements prepared by the NRC in the future. For that reason, it may be of interest to readers of Council publications and notices.

This supplement is intended to clarify and elaborate upon environmental impacts associated with the reprocessing of spent nuclear fuels and the management of nuclear wastes as set forth in "Environmental Survey of the Uranium Fuel Cycle" (WASH-1248). Impacts caused by fuel reprocessing and management of wastes from all nuclear fuel-cycle functions except mining and milling are described, either on the basis of experience as recorded in the literature, or on the basis of the analyses and judgment of the NRC. Because a different model technology was used some impacts were identified beyond those in the original Survey, and these are discussed. All impacts are normalized to a reference reactor year, and are judged to be small.

The NRC is requesting public comment for a period of December 2, 1976.

Comments from interested members of the public should be addressed to:

Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Center.

Copies of the document are available for public inspection in the Commission's Public Document Rooms.

U.S. Nuclear Regulatory Commission, Waste Management Branch, MNBB—8604, Washington, DC 20555.

The document may also be purchased from the National Technical Information Service, Springfield, VA 22101.

STEVEN D. JELLINEK,
Staff Director.

[FR Doc.76-30411 Filed 10-15-76;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

GEORGE NEAL STEAM-ELECTRIC GENERATING STATION

Availability of Draft Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the George Neal Steam-Electric Generating Station, Unit 4, Port Neal Industrial District, Salix, Woodbury County, Iowa.

The proposed action is the addition of Unit 4 to the existing generating facility. The new unit is a 576 MW coal fired steam electric generating facility adjacent to the Missouri River approximately 15 miles south of Sioux City, Iowa. The DEIS is a joint effort to fulfill the responsibilities of the Environmental Protection Agency's National Pollutant Discharge Elimination System pursuant to section 306 of the FWPCA, the U.S. Army Corps of Engineers section 404 permit pursuant to the FWPCA section 10 permit pursuant to the River and Harbors Act of 1899, and the Rural Electrification Administration's possible issuance of loan guarantees to cooperatives providing for generation facilities and related transmission.

This DEIS was transmitted to the Council on Environmental Quality (CEQ) on October 6, 1976. In accordance with the CEQ's notice of availability, comments are due on November 29, 1976. Copies of the DEIS are available for review and comment from: EIS Program, Environmental Protection Agency, Region 7, 1735 Baltimore Street, Kansas City, Missouri 64108 (telephone: 816-374-2921 or FTS 8-758-2921).

Copies of the DEIS are available for public inspection at the following locations:

Environmental Protection Agency, Region 7 Library, 1735 Baltimore Street, Kansas City, Missouri 64108.
Sioux City Public Library, Sioux City, Iowa.
Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: October 13, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76-30507 Filed 10-15-76;8:45 am]

[FRL 631-8]

PROPOSED STANDARDS OF PERFORMANCE FOR KRAFT PULP MILLS

Availability of Draft Environmental Impact Statement

Pursuant to the Procedures for the Voluntary Preparation of Environmental Impact Statements (39 FR 37419), the Environmental Protection Agency has prepared a draft environmental impact statement (DEIS) for the Proposed Standards of Performance for Kraft Pulp Mills.

Standards of performance for new and modified kraft pulp mills are being proposed under the authority of section 111 of the Clean Air Act. Emissions from these sources that will be controlled are particulate matter and total reduced sulfur (TRS). The proposed standards limit emissions of particulate matter from three affected facilities: The recovery furnace, the smelt dissolving tank, and the line kiln. These three facilities account for virtually all of the particulate matter emissions from a kraft pulp mill.

This DEIS was transmitted to the Council on Environmental Quantity (CEQ) on October 5, 1976. In accordance with CEQ's notice of availability, comments are due on November 29, 1976. Copies of the DEIS are available for review and comment from the Public Information Center (PM-215), Environmental Protection Agency, Washington, DC 20460. Please specify Standard Support and Environmental Impact Statement: Standards of Performance for Kraft Pulp Mills, Volume I.

Copies of the DEIS are available for public inspection at the following location:

Environmental Protection Agency, Public Information Reference Unit, Room 2922, Waterside Mall, 401 M Street, SW, Washington, DC 20460.

Information copies of the DEIS are available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

Copies of the DEIS have been sent to various Federal, State, and local agencies, and interested individuals as outlined in the CEQ Guidelines.

Dated: October 13, 1976.

REBECCA W. HANMER,
Director, Office of Federal Activities.

[FR Doc.76-30506 Filed 10-15-76;8:45 am]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PREPARATION OF DEFENSE WASTE DOCUMENTS

Long-Term Management of Defense High-Level Radioactive Wastes

Notice is hereby given that the Energy Research and Development Administration (ERDA) has commenced the preparation of technical Defense Waste Documents (DWD's) on alternative methods for long-term management of high-level radioactive wastes generated as part of the national defense program at three ERDA sites. The three sites are the Hanford Reservation near Richland, Washington; the Savannah River Plant (SRP) near Aiken, South Carolina; and the Idaho National Engineering Laboratory (INEL) near Idaho Falls, Idaho.

Large quantities of high-level radioactive wastes in liquid and solid forms are currently stored at the sites on an interim basis. Research and development programs are underway at each site on alternative waste forms and storage modes for long-term management of these defense wastes. The technical documents will describe the current technological status and anticipated costs and risks of all reasonably available waste forms and storage modes.

The reports will serve as technical input for the preparation of environmental impact statements on long-term management of high-level radioactive defense wastes. The DWD's will be issued for public review in 1977, and comments received as a result of the review will be used as input into the follow-on environmental impact statements.

A major purpose of the DWD's is to promote public involvement at the early stages of decision-making regarding storage of these wastes. It is planned to treat the following subjects in the DWD's:

1. Description of Alternative Technologies.
2. Methodology for Assessing Risks and Costs.
3. Risk Analysis of Alternatives.
4. Costs of Alternatives.
5. Cost-Risk Considerations.

All interested agencies, organizations or persons desiring to submit comments or suggestions for consideration in the preparation of the DWD's should submit them by November 30 to:

Dr. Carl W. Kuhlman, Division of Nuclear Fuel Cycle and Production, B-107, U.S. Energy Research and Development Administration, Washington, D.C. 20545. Telephone (301) 353-4285.

Dated at Germantown, Md., this 8th day of October 1976, for the Energy Research and Development Administration.

EDMUND F. O'CONNOR,
Deputy Assistant Administrator for Nuclear Energy.

[FR Doc. 76-30434 Filed 10-15-76; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: October 5, 1976.

Released: October 13, 1976.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that on December 2, 1976, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 1, 1976, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on December 1, 1976. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to § 1.573(d) of the Commission rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPENDIX

BPH-9795 (New), Etowah, Tenn., Ketron Broadcasting, Inc., Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: —14 ft.

BPH-9316 (New), Nome, Alaska, Arctic Broadcasting Association. Req: 100.3 mHz; Channel No. 262C. ERP: .034 kW; HAAT: 40 ft.

BPH-9359 WBYQ, Boyertown, Penn., Boyertown Broadcasting Co., Inc. Has: 107.5 mHz; Channel No. 298B. ERP: 20 kW; HAAT: 330 ft. (Lic). Req: 107.5 mHz; Channel No. 298B. ERP: 29.9 kW; HAAT: 611 ft.

BPH-9335 KMYR, Albuquerque, N. Mex., Fontana Media Corp. Has: 93.5 mHz; Channel No. 228C. ERP: 19.5 kW; HAAT: —155 ft. (Lic.). Req: 93.5 mHz; Channel No. 228C. ERP: 8.14 kW; HAAT: 4104 ft.

BPH-9340 (New), Healdsburg, Calif., North Coast Communications, Inc. Req: 92.9 mHz; Channel No. 225B. ERP: 2.5 kW; HAAT: 1661 ft.

BPH-9360 (New), Southold, N.Y., North Fork Broadcasting Co. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT: 267 ft.

BPH-9367 KGOW, Broken Arrow, Okla., Proud Country Entertainment, Inc. Has: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 245 ft. (Lic). Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 300 ft.

BPH-9363 WRSV Rocky Mount, N.C., Radio Station Weed, Inc. Has: 92.1 mHz; Chan-

nel No. 221A. ERP: 1.3 kW; HAAT: 160 ft. (Lic). Req: 92.1 mHz; Channel No. 221A. ERP: 1.7 kW; HAAT: 379.4 ft.

BPH-9964 (New) Kalkaska, Mich., Kaltrim Broadcasting Co. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kW; HAAT: 300 ft.

BPH-9966 (New) Blackshear, Ga., Mattox-Guest Broadcasting Co. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 ft.

BPH-9968 WTAN-FM Clearwater, Fla., Clearwater Radio, Inc. Has: 95.7 mHz; Channel No. 239C. ERP: 18 kW; HAAT: 130 ft. (Lic). Req: 95.7 mHz; Channel No. 239C. ERP: 100 kW; HAAT: 447.4 ft.

BPH-9975 (New) Rockville, Ind., Parke-Vermillion Broadcasting. Req: 104.9 mHz; Channel No. 285A. ERP: 1.2 kW; HAAT: 440 ft.

BPH-9979 (New) Fowler, Ind., Northwest Indiana Communicators, Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 2.2 kW; HAAT: 346 ft.

BPH-9987 (New) North Platte, Nebr., Dahl FM Broadcasting Co., Inc. Req: 97.1 mHz; Channel No. 246C. ERP: 100 kW; HAAT: 34 ft.

BPH-9989 (New) Salem, Ark., Salem Broadcasting Co. Req: 95.9 mHz; Channel No. 240A. ERP: 2.5 kW; HAAT: 324 ft.

BPH-9990 (New) Albany, Oreg., Linn-Benton Broadcasters, Inc. Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW: HAAT: 1075 ft.

BPH-9992 (New) Village of Manlius, N.Y., Manlius Broadcasting, Inc. Req: 95.3 mHz; Channel No. 237A. ERP: .41 kW; HAAT: 710 ft. (Allocated to Cazenovia, N.Y.)

BPH-9993 (New) Crookston, Nebr., the Rosebud Educational Society. Req: 96.1 mHz; Channel No. 241C. ERP: 57 kW; HAAT: 508 ft. (Allocated to Valentine, Nebr.)

BPH-9994 (New) Ogden, Utah, El Paso Broadcasting Corp. Req: 95.5 mHz; Channel No. 238C. ERP: 100 kW; HAAT: 681 ft.

BPH-9995 (New) Nogales, Ariz., Graham Broadcasting Co. Req: 98.3 mHz; Channel No. 252A. ERP: .215 kW; HAAT: 223 ft.

BPH-9997 WAHR Huntsville, Ala., WAHR, Inc. Has: 99.1 mHz; Channel No. 256C. ERP: 3.2 kW; HAAT: 45 ft. (Lic). Req: 99.1 mHz; Channel No. 256C. ERP: 100 kW; HAAT: 538 ft.

BPH-9999 WHIS-FM Bluefield, W. Va., Daily Telegraph Printing Company. Has: 104.5 mHz; Channel No. 283C. ERP: 5.9 kW; HAAT: 1170 ft. (Lic). Req: 104.5 mHz; Channel No. 283C. ERP: 100 kW; HAAT: 1159 ft.

BPH-10001 KNRO-FM Conroe, Tex., Family Group Enterprises, Inc. Has: 106.9 mHz; Channel No. 295C. ERP: 100 kW; HAAT: 240 ft. (Lic). Req: 106.9 mHz; Channel No. 295C. ERP: 100 kW; HAAT: 531.7 ft.

BPH-10002 WWIL Wilmington, N.C. The Progressive Broadcasting Corp. Has: 97.3 mHz; Channel No. 247C. ERP: 27.5 kW; HAAT: 125 ft. (Lic). Req: 97.3 mHz; Channel No. 247C. ERP: 100 kW; HAAT: 559 ft.

BPH-10003 WSIM Red Bank City, Tenn., Roy Davis. Has: 94.3 mHz; Channel No. 232A. ERP: 3 kW; HAAT: 22 ft. (Lic). Req: 94.3 mHz; Channel No. 232A. ERP: 3 kW; HAAT: 191 ft.

BPH-10006 WQMR New Brunswick, N.J., Raritan Valley Broadcasting Co., Inc. Has: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HATT: 110 ft. (Lic). Req: 98.3 mHz; Channel No. 252A. ERP: 1 kW; HAAT: 525 ft.

BPH-10007 WRQN Westbrook, Maine, Japat, Inc. Has: 100.9 mHz; Channel No. 265A. ERP: .890 kW; HAAT: 510 ft. (Lic). Req: 100.9 mHz; Channel No. 265A. ERP: 3 kW; HAAT: 224 ft.

BPH-10008 WPJC Burgaw, N.C., Smiles East, Inc. Has: 99.9 mHz; Channel No. 260C. ERP: 28 kW; HAAT: 150 ft. (Lic). Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT: 506 ft.

BPH-10009 (New) Baldwyn, Miss., Superior B/Cting Co., Inc. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-10010 WLAV-FM Grand Rapids, Mich., Shepard Broadcasting Corp., Has: 96.9 mHz; Channel No. 245B. ERP: 28 kW; HAAT: 180 ft. (Lic). Req: 96.9 mHz; Channel No. 245B. ERP: 50 kW; HAAT: 500 ft.

BPH-10012 (New) South Haven, Mich., Van Buren County B/cting Co., Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT: 163 ft.

BPH-10015 (New) Pine City, Minn., WCMP Broadcasting Co. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 290 ft.

BPH-10016 (New) Minden, La., Cook Enterprises, Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 145 ft.

BPH-10017 (New) North Bend, Oreg., Larson-Wynn, Inc. Req: 100.9 mHz; Channel No. 265A. ERP: .8 kW; HAAT: 598 ft.

BPH-10018 (New) Malden, Mo., Tri-County Broadcasting Co., Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 182 ft.

BPH-10020 (New) Glasgow, Mont., Otto Zerbe. Req: 93.5 mHz; Channel No. 228A. ERP: 3 kW; HAAT: 300 ft.

BPH-10021 WLRG Roanoke, Va., Cebe Investment. Has: 92.3 mHz; Channel No. 222C. ERP: 20 kW; HAAT: —57 ft. (Lic). Req: 92.3 mHz; Channel No. 222C. ERP: 20 kW; HAAT: 1862 ft.

BPH-10022 (New) Ashland, Oreg., Kilibro Broadcasting Corp. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kW; HAAT: —310 ft.

BPH-10023 (New) Moundsville, W. Va., Hank Grewe Broadcasting, Inc. Req: 105.5 mHz; Channel No. 288A. ERP: 2.55 kW; HAAT: 321 ft.

BPH-10024 KGMO-FM Cape Giardeau, Mo., Withers Broadcasting Co. Has: 100.7 mHz; Channel No. 264C. ERP: 28.5 kw; HAAT: 170 ft. (Lic). Req: 100.7 mHz; Channel No. 264C. ERP: 100 kw; HAAT: 345 ft.

BPH-10025 KIDA Moorhead, Minn., Valley Communications Corp. Has: 99.9 mHz; Channel No. 260C. ERP: 26.5 kw; HAAT: 170 ft. (Lic). Req: 99.9 mHz; Channel No. 260C. ERP: 100 kw; HAAT: 393 ft.

BPH-10026 (New) Centreville, Miss., Western Mississippi B/ctrs., Inc. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kw; HAAT: 300 ft.

BPH-10027 WXAX Elkhart, Ind., Progressive Broadcasting System, Inc. Has: 104.7 mHz; Channel No. 284B. ERP: 50 kw; HAAT: 195 ft. (Lic). Req: 104.7 mHz; Channel No. 284B. ERP: 50 kw; HAAT: 455 ft.

BPH-10029 (New) Fowler, Calif., Morris Mindel. Req: 96.7 mHz; Channel No. 244A. ERP: 3 kw; HAAT: 139 ft.

BPH-10030 KWEB-FM Rochester, Minn., PSB Radio Group, Inc. Has: 101.7 mHz; Channel No. 269A. ERP: 3 kw; HAAT: 46 ft. (Lic). Req: 101.7 mHz; Channel No. 269A.

BPH-10031 (New) Oroville, Calif., Oroville ERP: .708 kw; HAAT: 559 ft.
Radio, Inc. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kw; HAAT:—47 ft.

BPH-10033 KQIP Odessa, Tex., Texas Broadcast Industries, Inc. Has: 96.9 mHz; Channel No. 245C. ERP: 1.7 kW; HAAT: 185 ft. (Lic). Req: 96.9 mHz; Channel No. 245C. ERP: 100 kW; HAAT: 599 ft.

BPH-10034 WKDN-FM Camden, N.J., Family Stations, Inc. Has: 106.9 mHz; Channel No. 295B. ERP: 18 kW; HAAT: 340 ft. (Lic). Req: 106.9 mHz; Channel No. 295B. ERP: 38 kW; HAAT: 546 ft.

BPH-10035 WKSA-FM Isabella, P.R., Radio Noroeste Broadcasting, Inc. Has: 101.5 mHz; Channel No. 268B. ERP: 3.3 kW; HAAT: —8 ft. (Lic). Req: 101.5 mHz; Channel No. 268B. ERP: 38.7 kW; HAAT: —26.4 ft.

BPH-10037 (New) Winchendon, Mass., Northbanke Corp. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kW; HAAT: 300 ft.

BPH-10038 (New) Shelby, Mont., Tri-County Radio Corp. Req: 96.3 mHz; Channel No. 242C. ERP: 29 kW ;HAAT: 570 ft.

BPH-10040 (New) Hermiston, Oreg., Interfaith Christian Center. Req: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: 300 ft.

BPH-10041 (New) Tucson, Ariz., Golden State Broadcasting Corp. Req: 107.5 mHz; Channel No. 298C. ERP: 100 kW; HAAT: 1614 ft.

BPH-10043 (New) Hampton Bays, N.Y., Efem, Inc. Req: 107.1 mHz; Channel No. 296A. ERP: 3 kW; HAAT: 300 ft. (Allocated to Westhampton Beach, N.Y.)

BPH-10044 (New) Chandler, Ariz., Wycom Corp., Req: 107.9 mHz: Channel No. 300C. ERP: 25 kw; HAAT: 85 ft.

BPH-10045 (New) Escanaba, Mich., Communications Properties, Inc. Req: 104.7 mHz; Channel No. 284C. ERP: 100 kw; HAAT: 345 ft.

BPH-10046 (New) Charlottesville, Va., Charlottesville B/cting Associates. Req: 92.7 mHz: Channel No. 224A. ERP: .412 kw; HAAT: 805 ft.

BPH-10048 (New) Kalkaska, Mich., Peninsula Broadcasting, Inc. Req: 97.7 mHz: Channel No. 249A. ERP: 1 kw; HAAT: 497 ft.

BPH-10050 (New) Eureka, Calif., Pauldon, Inc. Req: 92.3 mHz: Channel No. 222C. ERP: 100 kw; HAAT: 355 ft.

BPH-10051 (New) Safford, Ariz., Ksll, Inc. Req: 94.1 mHz: Channel No. 231C. ERP: 100 kw; HAAT: —316 ft.

BPH-10053 (New) Carthage, Miss., Meredith Colon Johnston. Req: 98.3 mHz: Channel No. 252A. ERP: 3 kw; HAAT: 300 ft.

BPH-10055 (New) Lompoc, Calif., Straw Broadcasting Co., Inc., Req: 100.9 mHz: Channel No. 265A. ERP: 3 kw; HAAT: 73.55 ft.

BPH-10057 (New) Mansfield, Mo., Mansfield Broadcasting Co. Req: 95.9 mHz: Channel No. 240A. ERP: 3 kw; HAAT: 206 ft.

BPH-10059 WKTA McKenzie, Tenn., Huntingdon-McKenzie B/cting Co. Has: 106.9 mMz: Channel No. 295C. ERP: 7.1 kw; HAAT: 290 ft. (Lic). Req: 106.9 mHz: Channel No. 295C. ERP: 100 kw; HAAT: 466 ft.

BPH-10061 WLUV-FM Loves Park, Ill., Loves Park Broadcasting Co, Has: 96.7 mHz; Channel No. 244A. ERP: 3 kw; HAAT: 145 ft. (Lic). Req: 96.7 mHz; Channel No. 244A. ERP: 3 kw; HAAT: 236 ft.

BPH-10062 WQBK-FM Rensselaer, N.Y., People Communication Corp. Has: 103.9 mMz; Channel No. 280A. ERP: 3 kw; HAAT: 87 ft. (Lic). Req: 103.9 mHz; Channel No. 280A. ERP: 3 kw; HAAT: 300 ft.

BPH-10064 WQXQ Daytona Beach, Fla., Walter-Weeks Broadcasting, Inc. Has: 101.9 mHz; Channel No. 270C. ERP: 25 kw; HAAT: 110 ft. (Lic). Req: 101.9 mHz; Channel No. 270C. ERP: 100 kw; HAAT: 230 ft.

BPH-10065 WBJW Orlando, Fla., Rounsaville of Tampa, Inc. Has: 105.1 mHz; Channel No. 286C. ERP: 100 kw; HAAT: 350 ft. (Lic). Req: 105.1 mHz; Channel No. 286C. ERP: 100 kw; HAAT: 1380 ft.

BPH-10067 WCBY-FM Cheboygan, Mich., WCBY Radio, Inc. Has: 105.1 mHz; Channel No. 286C. ERP: 25 kw; HAAT: 105 ft. (Lic). Req: 105.1 mHz; Channel No. 286C. ERP: 100 kw; HAAT: 520 ft.

BPH-10068 WCOD-FM Hyannis, Mass., Kotcom Broadcasting, Inc. Has: 106.1 mHz; Channel No. 291B. ERP: 25 kw; HAAT: 125 ft. (Lic). Req: 106.1 mHz; Channel No. 291B. ERP: 44.5 kw; HAAT: 425 ft.

BPH-10070 (New) Southold, N.Y., Peconic Bay B/Citing Corp. Req: 101.7 mHz; Channel No. 269A. ERP: 3 kw; HAAT: 300 ft.

BPH-10071 (New) Shallotte, N.C., Media Group, Inc. Req: 93.5 mHz; Channel No. 228A. ERP: 3 kw; HAAT: 300 ft.

BPH-10072 (New) Waynesville, N.C., Paul J. Wolfe, Jr. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kw; HAAT: 23.6 ft.

BPH-10074 KDNT-FM Denton, Tex., Bass Brothers Telecasters, Inc. Has: 106.1 mHz; Channel No. 291C. ERP: 100 kw; HAAT: 265 ft. (Lic). Req: 106.1 mHz; Channel No. 291C. ERP: 100 kw; HAAT: 468 ft.

BPH-10075 (New) Westmorland, Calif., Ettlinger Broadcasting Corp. Req: 94.5 mHz; Channel No. 233B. ERP: 50 kw; HAAT: 376 ft. (Allocated to Brawley, Ca.)

BPH-10076 (New) Dunedin, Fla., Stereo FM 92, Inc. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kw; HAAT: 284 ft.

BPH-10077 (New) Holiday, Fla., Holiday Broadcasting System, Inc. Req: 106.3 mHz; Channel No. 292A. ERP: 3 kw; HAAT: 300 ft.

BPH-10078 (New) MacClenny, Fla., Woodrow W. Rhoden, Req: 92.1 mHz; Channel No. 221A. ERP: 3 kw; HAAT: 300 ft.

BPH-10079 (New) Marco, Fla., Deltonia Broadcasting Co., Inc. Req: 101.1 mHz; Channel No. 266C. ERP: 100 kw; HAAT: 667.5 ft.

BPH-10080 KFNW-FM Fargo, N. Dak., Northwestern College. Has: 97.9 mHz; Channel No. 250C. ERP: 29 kw; HAAT: 210 ft. (Lic). Req: 97.9 mHz; Channel No. 250C. ERP: 100 kw; HAAT: 347 ft.

BPH-10081 KHFM Albuquerque, N. Mex., Che Broadcasting Company. Has: 96.3 mHz; Channel No. 242C. ERP: 3.3 kw; HAAT: —20 ft. (Lic). Req: 96.3 mHz; Channel No. 242C. ERP: 1.46 kw; HAAT: 4104 ft.

BPH-10082 KHOP Modesto, Calif., Big Valley Broadcasting, Inc. Has: 104.1 mHz; Channel No. 281B. ERP: 4.7 kw; HAAT: 260 ft. (Lic). Req: 104.1 mHz; Channel No. 281B. ERP: 50 kw; HAAT: 499 ft.

BPH-10083 WDEA-FM Ellsworth, Me., Grindstone Broadcasting Corp. Has: 95.7 mHz; Channel No. 239B. ERP: 50 kw; HAAT: 320 ft. (Lic). Req: 95.7 mHz; Channel No. 239B. ERP: 8.7 kw; HAAT: 993 ft.

BPH-10084 (New) New Lexington, Oh., Perry County Broadcasting Co. Req: 106.3 mHz; Channel No. 292A. ERP: 3 kw; HAAT: 300 ft.

BPH-10086, WFID, Rio Piedras, Puerto Rico, Fidelity Broadcasting Corp. Has: 95.7 mHz: Channel No. 239B. ERP: 30 kW; HAAT: 3 Ft. (Lic). Req: 95.7 mHz; Channel No. 239B. ERP: 50 kW; HAAT: 801 Ft.

BPH-10087, KICN, Spokane, Wash., Rainier Broadcasting Co. Has: 98.9 mHz; Channel No. 255C. ERP: 28 kW; HAAT: 285 Ft. (Lic). Req: 98.9 mHz; Channel No. 255C. ERP: 100 kW; HAAT: 290 Ft.

BPH-10088, KROB-FM, Robstown, Tex., Coastal Bend Broadcasting Corp. Has: 99.9 mHz; Channel No. 260C. ERP: 36 kW; HAAT: 185 Ft. (Lic). Req: 99.9 mHz; Channel No. 260C. ERP: 99.5 kW; HAAT: 269 Ft.

BPH-10090 (new), Pendleton, Oreg., Faith Media, Inc. Req: 103.5 mHz; Channel No. 278C. ERP: 100 kW; HAAT: 1149 Ft.

BPH-10092 (new), Charlevoix, Mich., New Broadcasting Corp. Req: 105.9 mHz; Channel No. 290C. ERP: 100 kW; HAAT: 534 Ft.

BPH-10093 (new), Cleveland, Tenn., Thomason Broadcasting, Inc. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT: 300 Ft.

BPH-10099 (new), Port Lavaca, Tex., Calhoun County Broadcasting. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 174.2 Ft.

BPH-10100 (new), Ogallala, Nebr., Ogallala Broadcasting Co., Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 294 Ft.

BPH-10102 (new), Bayard, N. Mex., K.N.F.T., Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 133 Ft. (Allocated to Silver City, N. Mex.)

BPH-10104 (new), Douglas, Ariz., KAPR, Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 45 Ft.

BPH-10105 (new), Phoenix, Ariz., American International Development, Inc. Req: 99.9 mHz; Channel No. 260C. ERP: 100 kW; HAAT: 1674 Ft.

BPH-10106 (new), West Branch, Mich. Ogemaw Broadcasting Co. Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: 300 Ft. (Allocated to St. Helen, Mich.)

BPH-10108, WHBM, Xenia, Ohio, H & H Broadcasters, Inc. Has: 103.9 mHz; Channel No. 280A. ERP: 1 kW; HAAT: 169 Ft. (Lic). Req: 103.9 mHz; Channel No. 280A. ERP: 3 kW; HAAT: 193 Ft.

BPH-10109 (new), Phoenix, Ariz., KXIV, INC. Req: 99.9 mHz; Channel No. 260C. ERP: 96.6 kW; HAAT: 1738 Ft.

BPH-10110, WHCG, Metter, Ga., Richard Buttimer, Administrator CTA. Has: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 185 Ft. (Lic). Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 Ft.

BPH-10112, WKSM, Tabor City, N.C., Tabor City Broadcasting Co., Inc. Has: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 160 Ft. (Lic). Req: 104.9 mHz; Channel No. 285A. ERP: 1.5 kW; HAAT: 400 Ft.

BPH-10113, KFMS, Las Vegas, Nev., Gilday Broadcasting Co., Has: 101.9 mHz; Channel No. 270C. ERP: 20 kW; HAAT: 41 ft. (Lic). Req: 101.9 mHz; Channel No. 270C. ERP: 25 kW; HAAT: 3700 ft.

BPH-10115, KWEN, Tulsa, Okla. Swanco Broadcasting, Inc. Has: 95.5 mHz; Channel No. 238C. ERP: 100 kW; HAAT: 300 ft. (Lic). Req: 95.5 mHz; Channel No. 238C. ERP: 100 kW; HAAT: 640 ft.

BPH-10118 (new), Charlottesville; Va., Brown Broadcasting Co. Req: 93.7 mHz; Channel No. 224A. ERP: .235 kW; HAAT: 1020 ft.

BPH-10119 (new), Luray, Va., Caverns Broadcasting Co. Req: 106.3 mHz; Channel No. 292A. ERP: 3 kW; HAAT: 130 ft.

BPH-10123, WTLN-FM, Apopka, Fla., Orange County Broadcasters. Has: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 140 ft. (Lic). Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 ft.

BPH-10124, WVOX-FM, New Rochelle, N.Y., Hudson-Westchester Radio, Inc. Has: 93.5 mHz; Channel No. 228A. ERP: 3 kW; HAAT: 145 ft. (Lic). Req: 93.5 mHz; Channel No. 228A. ERP: 2.4 kW; HAAT: 330 ft.

BHP-10125 (new), Lompoc, Calif. JWR Broadcasting Corp., Req: 100.9 mHz; Channel No. 265A. ERP: 3 kW; HAAT: 29 ft.

BPH-10126, WWVA-FM, Wheeling, W. Va., Basic Communications, Inc. Has: 98.7 mHz; Channel No. 254B. ERP: 7.4 kW; HAAT: 470 Ft. (Lic). Req: 98.7 mHz; Channel No. 254B. ERP: 42 kW; HAAT: 553 Ft.

BPH-10127, WYLD-FM, New Orleans, La., Peterson Broadcasting Corp. Has: 98.5 mHz; Channel No. 253C. ERP: 54 kW; HAAT: 290 Ft. (Lic). Req: 98.5 mHz; Channel No. 253C. ERP: 100 kW; HAAT: 430 Ft.

BPH-10129, WAOT, Carrollton, Ala., Pickens County Broadcasters. Has: 94.1 mHz; Channel No. 231C. ERP: 30 kW; HAAT: 360 Ft. (Lic). Req: 94.1 mHz; Channel No. 231C. ERP: 100 kW; HAAT: 360 Ft.

BPH-10130, WOYE-FM Moyaguez, Puerto Rico, Pepino Broadcasters, Inc. Has: 94.1 mHz; Channel No. 231B. ERP: 20 kW; HAAT: 160 Ft. (Lic). Req: 94.1 mHz; Channel No. 231B. ERP: 25 kW; HAAT: 1903 Ft.

BPH-10140, WAUG-FM, Augusta, Ga., The Hunter Group, Inc. Has: 105.7 mHz; Channel No. 289C. ERP: 50 kW; HAAT: 83 Ft. (Lic). Req: 105.7 mHz; Channel No. 289C. ERP: 82 kW; HAAT: 1516 Ft.

BPH-10141, WSEV-FM Sevierville, Tenn. Smoky Mountain Broadcasting Corp. Has: 102.1 mHz; Channel No. 271C. ERP: 22 kW; HAAT: 330 Ft. (Lic). Req: 102.1 mHz; Channel No. 271C. ERP: 100 kW; HAAT: 1037 Ft.

BPH-10142, WJEH-FM, Gallipolis, Ohio, Wagner Broadcasting Corp. Has: 101.5 mHz; Channel No. 263B. ERP: 15.4 kW; HAAT: 159 Ft. (Lic). Req: 101.5 mHz; Channel No. 263B. ERP: 35 kW; HAAT: 351 Ft.

BPH-10159, KOCN, Pacific Grove, Calif., Pacific Ocean Broadcasters, Inc. Has: 104.9 mHz; Channel No. 285A. ERP: 1 kW; HAAT: 50 ft. (Lic). Req: 104.9 mHz; Channel No. 285A. ERP: .313 kW; HAAT: 524 ft.

BPH-10160 (new), Melbourne, Fla., 1st Baptist Church of Melbourne, Fla., Req: 106.3 mHz; Channel No. 292A. ERP: 3 kW; HAAT: 212 ft.

BPH-10163, WLJE, Valparaiso, Ind., Porter County Broadcasting Corp. Has: 105.5 mHz; Channel No. 288A. ERP: 2.7 kW; HAAT: 235 ft. (Lic.). Req: 105.5 mHz; Channel No. 288A. ERP: 1.6 kW; HAAT: 400 ft.

BPH-10191 (new), Dublin, Ga., Dublin Broadcasting Co. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-10192, WFHG-FM, Bristol, Tenn./Va., Bristol Broadcasting Co., Inc. Has: 96.9 mHz; Channel No. 245C. ERP: 10 kW; HAAT: 269 ft. (Lic). Req: 96.9 mHz; Channel No. 245C. ERP: 67 kW; HAAT: 2240 ft.

BPH-10210 (new), Goleta, Calif., Goleta Communciations Corp. Req: 106.3 mHz; Channel No. 292A. ERP: 36 kW; HAAT: 885 ft.

BPH-10211 (new), Portage, Mich., The Circle Corp. Req: 107.7 mHz; Channel No. 299B. ERP: 50 kW; HAAT: 500 ft. (Allocated to Kalamazoo, Mich.)

BMPH-14854, WRCP-FM, Philadelphia, Pa., Rust Craft Broadcasting of Pa., Inc. Has: 104.5 mHz; Channel No. 283B. ERP: 26 kW; HAAT: 195 Ft. (Lic). Has: 104.5 mHz; Channel No. 283B. ERP: 2 kW; HAAT: 1010 Ft. (CP). Req: 104.5 mHz; Channel No. 283B. ERP: 5 kW; HAAT: 1008 Ft.

BMPH-14855, KQAA, Aberdeen, S. Dak., Dakota-North Plains. Has: 94.9 mHz; Channel No. 235C. ERP: 40 kW; HAAT: 200 ft. (CP). Req: 94.9 mHz; Channel No. 235C. ERP: 100 kW; HAAT: 1283 ft.

BMPH-14856, KIQO, Atascadero, Calif., Gateway Broadcasters, Inc. Has: 104.5 mHz; Channel No. 283B. ERP: 50 kW; HAAT: 215 Ft. (CP). Req: 104.5 mHz; Channel No. 283B. ERP: 3.6 kW; HAAT: 1430 Ft.

BPED-2185 (new), Albany, N.Y., State University of New York. Req: 90.9 mHz; Channel No. 215D. TPO: .01 kW.

BPED-2229 (new), Ridgecrest, Calif., Maranatha Christian Media, Inc., Req: 89.1 mHz; Channel No. 206D. TPO: .01 kW.

BPED-2244, KNTU, Denton, Tex., North Texas State University. Has: 88.5 mHz; Channel No. 203A. ERP: .44 kW; HAAT: 125 ft. (Lic). Req: 88.1 mHz; Channel No. 201C. ERP: 16.9 kW; HAAT: 135.5 Ft.

BPED-2262 (new), Cazenovia, N.Y., Cazenovia College. Req: 90.9 mHz; Channel No. 215D. TPO: .01 kW.

BPED-2269 (new) Birmingham, Ala., Southeastern Bible College, Inc. Req: 91.9 mHz; Channel No. 220C. ERP: 1.35 kW; HAAT: 447 ft.

BPED-2270 (new), Alvin, Tex., Alvin Community College, Req: 91.3 mHz; Channel No. 217D. TPO: .01 kW.

BPED-2271 (new), Wheeling, W. Va., Ohio County Board of Education. Req: 91.9 mHz; Channel No. 220D. TPO: .01 kW.

BPED-2273 (new), Pacific Grove, Calif., The Great Silence Broadcasting Foundation. Req: 90.3 mHz: Channel No. 212D. TPO: .01 kW.

BPED-2279 (new), Chicago, Ill. Loyola University of Chicago. Req: 88.7 mHz; Channel No. 204D. TPO: .01 kW.

BPED-2284, WCLH, Wilkes-Barre, Pa., Wilkes College. Has: 90.7 mHz; Channel No. 214B. ERP: .175 kW; HAAT: 1020 ft. (Lic). Req: 90.7 mHz; Channel No. 214B. ERP: 2 kW; HAAT: 1000 ft.

BPED-2286 (new), Huntingdon, Pa., Juniata College. Req: 91.7 mHz; Channel No. 219D. TPO: .01 kW.

BPED-2287 (new), Gainesville, Ga., Brenau College. Req: 89.1 mHz; Channel No. 206D. TPO: .01 kW.

BPED-2288, KTCU-FM, Fort Worth, Tex., Texas Christian University. Has: 89.1 mHz; Channel No. 206D. TPO: .01 kW; HAAT: 115 ft. (Lic). Req: 88.7 mHz; Channel No. 204A. ERP: 3 kW; HAAT: 124.5 ft.

BPED-2290 (new), High Point, N.C., Trustees of High Point College, Inc. Req: 90.3 mHz; Channel No. 212D. TPO: .01 kW.

BPED-2293 (new), San Juan, Puerto Rico, University of Puerto Rico. Req: 89.7 mHz; Channel No. 209B. ERP: 50 kW; HAAT: 796 ft.

BPED-2294, KRSW-FM, Worthington, Marshall, Minn., Minnesota Public Radio, Inc. Has: 91.7 mHz; Channel No. 219C. ERP: 99 kW; HAAT: 800 ft. (Lic). Req: 91.7 mHz; Channel No. 219C. ERP: 99 kW; HAAT: 800 ft. (Worthington-Marshall) Minn.

BPED-2296 (new), Wichita, Kans., Defenders School of the Air, Inc. Req: 91.1 mHz; Channel No. 216C. ERP: 14.7 kW; HAAT: 187 ft.

BPED-2297 (new), Buckhannon, W. Va., West Virginia Wesleyan College. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kW.

BPED-2298 (new), Farmington Hills, Mich., Oakland Community College. Req: 90.3 mHz; Channel No. 212D. TPO: .01 kW.

BPED-2299 (new), Plains, Tex., Plains Independent School District. Req: 90.7 mHz; Channel No. 214D. TPO: .01 kW.

BPED-2301 (new) Hollywood, Fla., Florida Bible College, Inc. Req: 88.1 mHz; Channel No. 201A. ERP: 3 kW; HAAT: 132.3 ft.

BPED-2302 (new) Wilmington, N.C., Univ. of North Carolina at Wilmington. Req: 91.3 mHz; Channel No. 217D. TPO: .01 kW.

BPED-2305 (new) Sacramento, Calif., Sacramento City College Student Union. Req: 89.7 mHz; Channel No. 209D. TPO: .01 kW.

BPED-2307 (new) Portales, N. Mex., Bd. of Regents Eastern NM University. Req: 89.5 mHz; Channel No. 208C. ERP: 100 kW; HAAT: 185.4 ft.

BPED-2315 (new) Fredonia, N.Y., Bd. of Trustees State Univ. of NY. Req: 88.9 mHz; Channel No. 205D. TPO: .01 kW.

BPED-2316 (new) Phoenix, Ariz., Community B/cting Found. of Phoenix. Req: 88.3 mHz; Channel No. 202C. ERP: .9 kW; HAAT: 161.5 ft.

BPED-2318 (new) Anasco, P.R., Centro Colegial Cristiano, Inc. Req: 90.3 mHz; Channel No. 212B. ERP: 14.7 kW; HAAT: 125 ft.

BPED-2322 (new) Orlando, Fla., Florida Technological University. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kW.

BPED-2324 WVVS Valdosta, Ga., Valdosta State College. Has: 90.9 mHz; Channel No. 215A. ERP: .180 kW; HAAT: 68 ft. (Lic). Req: 90.9 mHz; Channel No. 215C. ERP: 5.34 kW; HAAT: 67.7 ft.

BPED-2325, KTSU, Houston, Tex., Texas Southern University. Has: 90.9 mHz; Channel No. 215D. TPO: .01 kW (Lic). Req: 90.9 mHz; Channel No. 215C. ERP: 18:6 kw; HAAT: 263 ft.

BPED-2328 (new), Pittsfield, Mass., Pittsfield Public School Committee. Req: 89.5 mHz; Channel No. 208D. TPO: .01 kW.

BPED-2329 (new), Zuni, N. Mex., Zuni Radio Board of Commissioners. Req: 90.9 mHz; Channel No. 215D. TPO: .01 kW.

BPED-2357 (new), Muncie, Ind., Delaware Community School Corp. Req: 90.5 mHz; Channel No. 213D. TPO: .01 kW.

BPED-2364 (new), Worcester, Mass., Trustees of College of Holy Cross. Req: 89.1 mHz; Channel No. 206D. TPO: .01 kW.

BPED-2366 (new), Jefferson Village, Ohio, Ashtabula County Joint Vocational School. Req: 88.9 mHz; Channel No. 205A. ERP: 1.6 kW: HAAT: 211 ft.

[FR Doc.76-30417 Filed 10-15-76;8:45 am]

[FCC 76-904; Docket Nos. 20939-20944]

PASS WORD, INC., ET AL.

Revocation of the Licenses; Order to Show Cause and Memorandum Opinion and Order

In re Revocation of the Licenses of Pass Word, Inc., Docket No. 20939. Licensee of stations KMM697, KOA271, KRS678 and KUC918 in the Domestic Public Land Mobile Radio Service and Rodney J. Bacon d/b/a Coeur d'Alene Answering Service Docket No. 20940. Licensee of stations KWU337 and KUO-646 the Domestic Public Land Mobile Radio Service and In re Applications of Courtesy Communications, Inc. Spokane, Washington Docket No. 20941, File No. 20239-CD-P-(3)-76; Pass Word, Inc. Spokane, Washington Docket No. 20942, File No. 20604-CD-P-(2)-76; Rodney J. Bacon d/b/a Coeur d'Alene Answering Service Kellogg, Idaho Docket No. 20943, File No. 20669-CD-P-76; Rodney J. Bacon d/b/a Coeur d'Alene Answering Service Coeur d'Alene, Idaho Docket No. 20944, File No. 20014-CD-P-76. For Construction Permits in the Domestic Public Land Mobile Radio Service. Designating applications for consolidated hearing on stated issues.

1. We are hereby initiating a proceeding to consider revocation of the licenses of two Commission licensees, Pass Word, Inc. and Rodney J. Bacon d/b/a Coeur d'Alene Answering Service, on the grounds that they have made numerous representations to the Commission which were willfully false and misleading. Courtesy Communications, Inc., formerly Public Service Associates, Inc., has filed an application which is mutually exclusive by reasons of electrical interference with applications filed by the other two licensees. Because substantial issues of a noncomparative nature are raised with respect to the Courtesy Communications application, a hearing on certain basic issues will be required before that application may be granted. Finally, if the issues in the revocation proceeding are resolved by the ALJ in favor of either Pass Word or Rodney J. Bacon d/b/a Coeur d'Alene Answering Service, a comparative hearing will be required, involving the mutually exclusive applications of these licensees and Courtesy Communications. Therefore, we are addressing this contingency in the present order. The various aspects of this three-part approach will be treated in order.

A. REVOCATION OF THE LICENSES OF PASS WORD, INC. AND RODNEY J. BACON D/B/A COEUR D'ALENE ANSWERING SERVICE

2. Pass Word, Inc. (Pass Word) is a licensee in the Domestic Public Land Mobile Radio Service (DPLMRS) of the following stations, which are authorized to operate on the specified frequencies at Spokane, Washington: KMM697 on 152.06, 152.18, 454.025 and 454.075 MHz; KOA271 on 152.03 and 152.21 MHz; KRS678 on 158.70 MHz; and KUC918 on 35.22 MHz.

3. Rodney J. Bacon d/b/a Coeur d'Alene Answering Service (Coeur d'Alene) is the licensee of the following DPLMRS stations, which are authorized to operate on the listed frequencies to serve Coeur d'Alene, Idaho: KWU337 (formerly KUO597, changed March 15, 1976) on 454.125 and 454.175 MHz; and KUO646 on 35.58 MHz. Coeur d'Alene, Idaho is approximately 30 miles east of Spokane, Washington. Transmitters for these two stations, as well as for Pass Word's KMM697, are located at Mica Peak, Idaho, approximately 9 miles east of Spokane.

4. Rodney Bacon is the sole owner of Coeur d'Alene Answering Service. Pass Word itself has not interest, direct or indirect in that RCC. However, Mr. Bacon is a 40 percent stockholder, president and chief operating officer, and is directly responsible for the management of Pass Word. Certain activities of the two carriers are coordinated or at least involve a good deal of cooperation. For example, Pass Word operates a control point at the office of Rodney Bacon d/b/a Coeur d'Alene Answering Service, and as many as 37 of Coeur d'Alene's subscribers have been serviced on the facilities of Pass Word.

5. On October 9, 1973, Pass Word received a construction permit (CP) from this Commission, authorizing it to operate station KMM697 on the frequencies 152.06, 454.025 and 454.075 MHz, at Mica Peak. By its terms, the CP was to expire on June 9, 1974 if construction was not completed in accordance with the permit. Pass Word did not file any request for an extension of the construction permit nor has any such extension otherwise been granted.

6. On June 6, 1974, Pass Word filed an FCC Form 403 pursuant to § 21.212 of the Commission's rules, seeking a license to cover its CP. In that application Pass Word stated that all the terms of the CP had been met and that the station was ready for operation. Rodney Bacon, as an officer of Pass Word, signed the application, certifying that "the statements in this application are true, complete, and correct to the best of [his] knowledge and belief and are made in good faith."

7. On June 5, 1974, Pass Word informed by mail the Commission's Engineer-in-Charge in Seattle, Washington that construction had been completed in accordance with the terms of the CP, and

that equipment and service tests would begin on station KMM697 on June 6 and June 7, 1974, respectively.

8. One year later, on July 10, 1975, Pass Word filed an application for two additional channels, 454.250 and 554.300 MHz, for station KMM697 to be located at Mica Peak, Idaho. On September 17, 1975, the Common Carrier Bureau returned this application as being defective, in large part because Pass Word failed to provide a traffic load showing, pursuant to § 21.516 of the Commission's Rules,[1] for the previously authorized frequencies, 454.025 and 454.075 MHz. The Bureau stated that the § 21.516 traffic load study was required "since these two channels were in operation for over one year at the time the instant proposal was filed."

9. Pass Word resubmitted this application on October 6, 1975 (File No. 20604-CD-P-(2)-76). Again no § 21.516 traffic showing for the two UHF frequencies was provided, but Pass Word requested a waiver of this requirement. In this filing the applicant asserts that although these facilities had been constructed they have not yet been put into use due to the unavailability of wireline control facilities. Pass Word states further that General Telephone Company of the Northwest was currently constructing the necessary wireline facilities and that the scheduled completion date would be no later than December 1, 1975.

10. The Common Carrier Bureau denied Pass Word's waiver request and instructed the applicant to amend its application accordingly within 30 days. On November 19, 1975, Pass Word, by its attorney, requested an extension of time of 120 days within which to comply with Section 21.516. This letter states that "the *two* channels * * * *were activated earlier this month* at great expense to the licensee * * *" (emphasis added), but because of delays in the delivery of mobile units, only a few mobile units were immediately put in service and additional time would be required before a meaningful loading study could be submitted. The Bureau granted an extension of time until February 29, 1976.

11. On December 9, 1975, Courtesy Communications, Inc. filed a "Petition to Institute Investigation and to Designate Application for Hearing," which essentially argues that by falsely stating that construction of the two 454 MHz facilities had been completed on June 4, 1974 when, in fact, they had not, Rodney Bacon willfully and knowingly misrepresented material facts in his application to cover the CP and in his letter to the Commission's Engineer-in-Charge; that the construction permit expired by its terms on June 9, 1974; that the subsequent completion of the facilities was without authority and in violation of section 319(a) of the Communications Act of 1934, as amended; that any operation on these frequencies is without authority and in violation of section 301 of the Communications Act; that the failure to disclose for many months that the facilities were not operational, contrary to previous representations, violates § 1.65 of the rules; that the idle frequencies should revert to the status of being unassigned; and that an investigation be conducted into the qualifications of Rodney Bacon and Pass Word.

12. The Courtesy petition was explicitly premised on the assertion of Pass Word that construction of the latter's facilities had been finally completed in November 1975. In its opposition pleading filed March 8, 1976, Pass Word states *"there is no dispute that two such base channels (UHF) were not activated until mid-November, 1975,"* (emphasis added) and states that the fact that the completion of construction had been delayed was disclosed (on February 11, 1975) to an Administrative Law Judge in an unrelated proceeding (testimony of Rodney Bacon in Docket Nos. 20209-20210, Blue Mountain Mobile Phone Co. Pass Word denies there have been any knowing and willful misrepresentations, but claims instead that Rodney Bacon "reasonably believed that construction had been 'completed'" on June 4, 1974, and that he filled in that date on the Form 403 "on the basis of his good faith beliefs and understandings." Pass Word admits that when it became aware of delays in the provision of wireline facilities no one thought to seek an extension of time nor otherwise inform the FCC, but insists there was no attempt to deceive or mislead the Commission. The applicant claims that there was a misunderstanding of the terms of the Form 403 nearly two years ago, that any mistake was inadvertent, no motive to misrepresent has been shown and, therefore, no harsh treatment is warranted.

13. Attached to this pleading is the affidavit of Rodney Bacon wherein he states that before June 4, 1974 he received from counsel a prepared Form 403 and that he filled in June 4 as the date of completion of construction. He lists several activities which had been completed, concluding:

> One UHF station was on the site ready for construction * * * The other UHF station was in Spokane, also ready for construction * * * All other parts such as coaxial cable, cable fittings, antenna mounting hardware, antennas, clamps, nails, protective conduit, etc., etc., had been collected or, in a few minor instances, located for immediate pick-up. All that remained in my estimation at that time, was a quick dash to the site, picking up these items on the way, and a straightforward antenna placement and we'd be in business that afternoon. As I understood the term at that time, the foregoing construction was sufficient to justify inserting the date 6/4/74 as the date of construction.

After learning that the wireline facilities were not yet installed, Bacon says, "I had numerous contacts with General Telephone, *but was unable to obtain satisfaction for more than a year.*" (emphasis added).

14. After reply comments were filed by Courtesy, a letter from Rodney Bacon was received by the Common Carrier Bureau on April 12, 1976. Bacon states in his letter that in Pass Word's March 8, 1976 opposition pleading the statement that the UHF frequencies assigned to KMM697 were activated in "mid-November, 1975" is incorrect. Bacon states that one channel, 454.025 MHz, is presently on the air, but that the second channel, 454.075 MHz, still cannot be activated because of a lack of landline control link facilities. Bacon states further that in reading a draft of the March 8 pleading he "did not notice the erroneous statement," but recently called it to the attention of his attorney. He attributes the error to a misunderstanding on the part of his attorney of telephone conversations between them. The letter is concluded by an assurance that any incorrect information or erroneous statement which might have been made, were made as a result of a misunderstanding and not with any intent to misinform.

15. *Coeur d'Alene Answering Service.* On January 23, 1974, Rodney J. Bacon d/b/a Coeur d'Alene Answering Service received a construction permit from the Commission, authorizing him to operate station KWU337 (formerly KUO597) on the frequencies 454.125 and 454.175 MHz at Mica Peak to serve Coeur d'Alene, Idaho. By its terms the CP was to expire on September 28, 1974 if construction was not completed in accordance with the permit. On June 6, 1974, Rodney Bacon filed an FCC Form 403 seeking a license to cover the CP, stating that construction had been completed on June 4, 1974. Relying on these representations, the Commission issued a license to Bacon on July 1, 1974.

16. On June 5, 1974, Rodney Bacon informed the FCC's Engineer-in-Charge in Seattle, Washington, by a letter nearly identical to the one referred to in paragraph 7 above, that the construction of KWU337's facilities had been completed on June 4, 1974 and that equipment and service tests would be conducted on June 10 and June 12, 1974, respectively.

17. A year later, on July 8, 1975, Rodney J. Bacon filed an application, File No. 20914-CD-P-76, seeking to add the frequency 454.200 MHz to station KWU-337. The applicant states that he is presently serving 55 units on the low-band channel of KUO646 and 25 units on KWU337 and has firm orders for 49 additional units on KWU337. Load studies for a three day period indicate that on station KWU337, 12 units operate on 454.125 MHz and 13 units operate on 454.175 MHz.

18. By letter dated September 19, 1975, the Common Carrier Bureau notified the applicant that the load study showing, pursuant to § 21.516, did not indicate any congestion on the UHF channels that would warrant the grant of an additional channel. In addition, the Bureau asked for an explanation as to why 49 held orders were not presently being served.

[1] Section 21.516 requires that applications for additional facilities be based on present channel loading and not anticipated future demands. Without the requisite § 21.516 showing the Commission has no relevant facts which would demonstrate that an applicant is adequately using the very limited spectrum allotted for mobile radio services.

19. An amendment to the application was filed on October 28, 1975 wherein it states *"the applicant is providing service to 12 units on 454.125 MHz and 13 units on 454.175 MHz"* (emphasis added). According to the applicant, the lack of adequate control circuitry between the transmitters at Mica Peak and the control point in Coeur d'Alene has prevented the applicant from providing service to subscribers for whom orders are being held, but that the wireline carrier had promised that the circuitry would be installed by October 30, 1975. The Common Carrier Bureau accepted this explanation and informed the applicant on October 30 that the application would be held in a pending status for three months.

20. A further amendment was filed on April 1, 1976 which states that "at present, 454.175 is in service * * * 454.125 is awaiting provision of control circuits by General Telephone and this should be virtually immediate." Coeur d'Alené states in addition that it is presently serving 37 units on the facilities of an assocate (Pass Word) whch has a dispatch office in Coeur d'Alene at applicant's office. This arrangement is described as a temporary one since the units are to be transferred to applicant's 454 MHz facilities. The applicant also states in this amendment that equipment has been purchased to begin this process and that additional purchases will be made.

21. Most recently, on April 13, 1976, Coeur d'Alene filed another amendment, stating "there appears to be a variance between the information submitted with the original application and the actual operation of [KWU337]. This amendment is intended to supplement and clarify the original application and previous amendment." The applicant states that Pass Word operates on 152.18 MHz on Mica Peak from its control point at Spokane and also operates a control point (not a dispatch point as originally stated) in Coeur d'Alene at Rodney Bacon's office. When Coeur d'Alene Answering Service filed its application for the 454.200 MHz facility, approximately 132 units were being served on 152.18 MHz, of which 25 were local Coeur d'Alene residents. The applicant's intention was and is to transfer these 25 units to the 454.125 and 454.175 MHz facilities he is authorized to operate. The applicant states that it is these 25 units which were mentioned as being served on KWU337 in Coeur d'Alene's application for 454.200 MHz, and in the traffic load study they were allocated between the two UHF channels just as the units themselves are to be allocated. In addition, the applicant states that the reference in the March 1 amendment to 37 units in service pertains to the number of local Coeur d'Alene residents who are being served on Pass Word's 152.18 MHz facilities. Coeur d'Alene states that "the inception of service on 454.125 and 454.175 MHz was delayed because of the lack of landline control circuits to Mica Peak. The first of these was installed for 454.175 in November of 1975 and the second, for 454.125 has been promised for July 19, 1976."

DISCUSSION

22. When an applicant files a Form 403 requesting a license to cover a CP and notifies the Commission's Engineer-in-Charge that equipment and service tests are to be conducted, the applicant is thereby stating that construction of the facilities has been completed in accordance with the terms of the CP and that the station is ready to begin operations. The record raises many questions concerning the construction and operation of the Mica Peak UHF facilities of these two licensees. Evidence before the Commission also raises questions whether Rodney Bacon, both in his capacity as a principal of Pass Word and as sole owner of Coeur d'Alene Answering Service, has made false and misleading representations to the Commission, has submitted loading studies showing traffic on stations which were not in operation, has ignored several opportunities to clarify the record and to correct false statements previously made and, only recently, after persistent Commission staff requests, has corrected certain discrepancies in information previously filed. Mr. Bacon's disclosures in the Blue Mountain Mobile Phone Co. hearings did not complete the record nor result in the correction of the station files and applications of Pass Word and Coeur d'Alene Answering Service, and certainly do not excuse the totality of his conduct. Every applicant certifies on his application that:

> I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith.

Printed on the application near this certification is the following statement:

> Willful false statements made on this form are punishable by fine and imprisonment. U.S. Code, Title, 18, Section 1001.

The Commission must depend on the integrity and representations of its licensees and a breach of that trust or willful false statements may be grounds for the revocation of licenses and character disqualification. See *FCC* v. *WOKO, Inc.*, 329 U.S. 223 (1946), and *Charles P.B. Pinson, Inc.* v. *FCC*, 321 F.2d 372 (1963). Therefore, a proceeding will be initiated offering to Pass Word and Coeur d'Alene Answering Service an opportunity to show cause why the licenses for their stations should not be revoked or further action should not be taken. The issues to be designated are listed below.

B. COMPARATIVE HEARING

23. If, in the proceeding referred to in Part A above, the specified issues are resolved in favor of Pass Word and Coeur d'Alene and the Administrative Law Judge concludes that their licenses are not to be revoked, a comparative hearing will nevertheless be required because pending applications of these two licensees are mutually exclusive for reasons of possible electrical interference with the application of Courtesy Communications, Inc. (Courtesy), File No. 20239-CD-P-(3)-76. A brief chronological background of the filings is as follows. As mentioned in Part A above, Pass Word was granted a construction permit for Station KMM 697 on October 9, 1973. On July 10, 1975, Pass Word filed an application for two additional channels, 454.250 and 454.300 MHz, but because it lacked a § 21.516 traffic load study, the Commission returned the application as being defective. This application was resubmitted on September 17, with a request for a waiver of § 21.516, and this is the proposal presently before us, File No. 20604-CD-P-(2)-76. Courtesy received a three-channel grant to operate station KWT894 in Spokane on July 8, 1975 and this appeared on the Commission's Public Notice of July 14, 1975. One month later, Courtesy filed the instant application to add the frequencies 454.050, 454.250 and 454.300 MHz. Courtesy stated that construction of its recently authorized facilities was not yet complete, but that these facilities would lack the capacity to meet the increased demands for service which Courtesy had discovered in a new survey. Therefore, Courtesy also requested a waiver of § 21.516. Rodney J. Bacon d/b/a Coeur d'Alene Answering Service filed an application, File No. 20669-CD-P-76, on October 17, 1975, for 454.050 MHz for a new DPLMRS facility at Kellogg, Idaho, 35 miles east of Coeur d'Alene and 65 miles east of Spokane.

24. *Basic Issues.* Various pleadings have been filed with respect to all three applications. Pass Word claims that Courtesy has filed a strike application and also attacks the applicant's need showing. We will consider a financial issue as well. If, as a result of the proceeding outlined in Part A above, the licenses of both Pass Word and Coeur d'Alene Answering Service are revoked, the need for a comparative hearing will be obviated. However, because the strike application, need and financial issues raised with respect to the Courtesy application are substantial, a grant may not issue without a hearing on those issues. These issues are developed more fully below. If, in fact, a comparative hearing becomes necessary, certain basic issues will be directed against the applications of Pass Word and Coeur d'Alene. Courtesy, in addition to the allegations included in Part A above, alleges that Coeur d'Alene, in conjunction with Pass Word, has filed a strike application. Need issues will also be designated against both applicants.

25. *Strike application issues: Courtesy Communications' Application.* In a petition to deny the Courtesy application, Pass Word alleges that Courtesy's principal, Dr. Sonneland, had a telephone conversation on July 13, 1975 with a competitor of both Courtesy and Pass Word, Robert S. Ditton of Mobilefone Northwest, in which Sonneland discussed the recently-filed application of Pass Word and suggested a petition to deny as a means to prevent its grant. Sonneland purportedly asked Ditton to join him in filing a petition to deny, and when Ditton declined to do so, Sonneland stated he would contact his attorney in

Washington, D.C. to see what could be done to prevent Pass Word from getting the channels. These allegations are contained in an affidavit of Rodney Bacon who states under oath that Robert Ditton had told him of the conversation.

26. Courtesy filed an opposition pleading in which it attacks the Pass Word petition as being defective because Bacon's affidavit contains hearsay and thus does not meet the requirements of section 309(d)(1) of the Communications Act. Dr. Sonneland, in an accompanying affidavit, clearly denies the allegations of improper conduct. Sonneland states he had told Mr. Ditton that he would contact the FCC concerning the availability of channels in the Spokane area and would contact his attorney to assure the needs of Courtesy's customers would be served by an adequate channel allocation. Dr. Sonneland states that he has no recollection of a July 13, 1975 telephone conversation with Ditton, although he recalls a meeting three days later with Ditton and two others at which time Pass Word's application was not mentioned. Sonneland alleges that later that day, on July 16, he telephoned Ditton and that during this conversation Mr. Ditton, without prompting, raised the matter of Pass Word's pending application, expressing indignation that Pass Word was selfishly applying for the only remaining available UHF frequencies in the area. Sonneland claims that Ditton stated he had considered filing a petition to deny, but decided not to because his stations have certain operating arrangements with Pass Word, and Ditton suggested they ask the FCC's Engineer-in-Charge to investigate the matter. Sonneland states that since he did not know the Engineer-in-Charge he declined to take this action.

27. In reply, Pass Word states that the Commission is presented with two inconsistent versions of an alleged conversation between Ditton and Sonneland, and although Bacon's affidavit involves hearsay, a substantial and material question of fact has been pleaded which reflects on whether a grant of the application would be inconsistent with the public interest, convenience and necessity. Therefore, Pass Word claims, the strike application issue can only be resolved in the hearing process.

28. *Coeur d'Alene Answering Service Application.* In its petition to deny, Courtesy claims that after it filed an application for three channels, Pass Word applied for two of the frequencies, and that the later-filed Coeur d'Alene application, for the one remaining uncontested channel, was deliberately intended to prevent the timely grant of Courtesy's application. Courtesy alleges that Coeur d'Alene acted irresponsibly since a frequency conflict could have been avoided had Coeur d'Alene filed for one of Pass Word's Spokane frequencies and/or coordinated or operated sequentially with the commonly-owned station of Pass Word. Courtesy argues, therefore, that the Coeur d'Alene application was filed primarily to impede, obstruct, or delay grant of its earlier-filed application and infers a motivation for so doing from several circumstances: the timing of the application, selection of frequency, the intervention of Pass Word in earlier proceedings involving Courtesy (Docket No. 20209 hearing), the present filing by Pass Word of a petition to deny against Courtesy's own application, and the fact that Pass Word's competing application is allegedly patently defective. Recognizing that the evidence is circumstantial, Courtesy claims it is nevertheless compelling.

29. Rodney Bacon denies that the timely filing of a bona fide application, such as his, which is electrically mutually exclusive with another application can be considered a strike application. Bacon alleges that the frequency was selected and the engineering contemplated in mid-July, 1975, a month before Courtesy filed its application. A copy of a letter from Bason to an engineering firm dated July 15, 1975, is included to support this assertion. Finally, Bacon claims he had considered and rejected, for technical and other reasons, the possible alternatives suggested in the Courtesy pleading and that, in any event, they are irrelevant. Courtesy's reply argues that even though Bacon may have considered engineering the Kellogg proposal on 454.050 MHz in July, the subsequent filing of the Courtesy application altered the circumstances so that Bacon should have considered other alternatives in order to avoid a conflict.

30. *Discussion.* On several occasions this Commission has considered an application which was interposed solely, or in part, to impede, obstruct or delay grant of another application as a strike application. See Asheboro Broadcasting Co., 20 FCC 2d 1 (1969), Capitol Broadcasting Co., 29 FCC 677 (1960), Blue Ridge Broadcasting Co., Inc., 37 FCC 791 (Rev. Bd., 1964), aff'd., *Gordon County Broadcasting Co.* v. *FCC*, 6 RR 2d 2044 (U.S. App. D.C., 1965). Whether the strike applicant intends to construct and operate is irrelevant, for we are primarily concerned with the improper motives behind the filing. It is to be noted that the cases cited are all broadcast precedents. Courtesy has urged, in opposing Pass Word's petition to deny, that the strike application issue arose as a means of fostering broadcast competition and thus, the concept is inapplicable to common carrier cases, which are governed by a rule of restricted competition. However, we note that the Domestic Public Land Mobile Radio Service is an area in which the Commission recognizes the values of and permits competition where possible. Empire Communications Co., 47 FCC 2d 329 (Rev. Bd., 1974). Thus, we believe that where circumstances warrant, a strike application issue is appropriate in a DPLMRS proceeding. cf. *Pinson* v. *FCC*, supra.

31. The case before us involves the filing of applications for additional channels by two licensees, Pass Word and Courtesy, neither of which, at the time of the filing of their applications, had completed construction and begun operations on previously authorized frequencies. Since both carriers contemplate an eventual expansion of their respective systems, an apparent race for the three remaining unassigned UHF frequencies in the Spokane area is being conducted. The partially common ownership and coordinated activities of Pass Word and Coeur d'Alene Answering Service have already been discussed. The circumstances presented here raise the question as to whether these two licensees have acted in such a way as to impede, delay or obstruct the grant of Courtesy's application. Likewise, although Rodney Bacon's account of the Dr. Sonneland—Mr. Ditton conversation consists of hearsay, the allegation raised is serious and is sufficient to warrant an inquiry into the matter.

32. The results of the inquiry could have a bearing on the character qualifications of either of the applicants, or the Administrative Law Judge might conclude that either or both of the applicants have abused the Commission's processes, conduct for which the Commission has previously warned radio common carriers that sanctions may be appropriate. See ATS Mobile Telephone, Inc., 35 FCC 2d 443 (1972).

33. *Need showing.* The application of Coeur d'Alene Answering Service for a new facility at Kellogg states the area to be served is about 35 miles from the nearest major town, Coeur d'Alene, and that the entire county has an approximate population of 18,500. The results of a survey and other requests indicate a need for 75 units to persons in seven general occupational categories. The applicant also indicates that a sizeable travelling public will require service as will persons in remote, mountainous areas. This appears to be an adequate showing, but since we have reason to question the applicant's statements we will designate an issue on need. See Cincinnati Bell, Inc., 47 FCC 2d 312 (1974).

34. As mentioned in Part A above, the Pass Word application initially requested a waiver of § 21.516, and although this request was denied, an extension of time in which to comply with the requirement was granted. Because Pass Word has not yet provided traffic loading data which would justify the grant of additional channels, this will be an issue in the hearing.

35. Courtesy also requests a waiver of § 21.516 but distinguishes its situation from that of Pass Word's, whose authorized channels were presumably in operation when the Common Carrier Bureau first insisted that loading studies be submitted. Courtesy initially claimed that although its system was not yet operational, its capacity will be inadequate to accommodate an additional 100 mobile units for which Courtesy has recently received orders. The Common Carrier Bureau rejected Courtesy's argument that a new survey should be accepted in lieu of traffic load data. Courtesy now states that construction of its station was completed on November 18, 1975. However,

traffic load studies for the first three days of operation indicate minimum useage and, accordingly, a need issue will be designated.

36. *Financial issue.* The projected cost of constructing Courtesy's proposed facilities is $12,100. Courtesy's amended application includes a balance sheet dated June 30, 1975 which shows the applicant has $7,075 in cash on hand, but that current liabilities of $62,538 exceed current assets of $41,580 by $20,958. We note that in the first six months of 1975 Courtesy was able to reduce its long-term obligations not due within one year from $63,292 to $38,679, a significant amount. However, we will require the applicant to better demonstrate how it will finance its proposal.

37. *Additional matters.* Pass Word requests a waiver of Section 21.505 to permit the use of 272 watts effective radiated power. We will grant the request so that the proposed facilities will be able to serve the same area as station KMM697, for which Pass Word has already received such a waiver. The application of Coeur d'Alene Answering Service for the new Kellogg facilities also requests a waiver of § 21.505 to permit the use of 500 watts E.R.P. The applicant claims that customers travelling between Kellogg and Coeur d'Alene and in remote mountainous areas outside the 13.2 watt E.R.P. 39 dBu contour need communications services. The Common Carrier Bureau noted that if the waiver is granted, approximately 40 percent of the applicant's proposed 39 dBu service contour will exceed the area authorized by the Idaho Public Utilities Commission, and that without the waiver about 20 percent of the 39 dBu service contour will exceed the authorized area. In response to a Bureau inquiry Coeur d'Alene submitted a letter from an Idaho attorney who states that although the Idaho PUC has jurisdiction over interconnected RCC's, F.C.C. authority is a prerequisite to the granting of additional or amended authority from the Idaho Commission. In a Notice of Inquiry and Proposed Rule Making adopted July 7, 1976, we proposed to eliminate our requirement that a DPLMRS applicant submit evidence of its state certification with its application. We stated further that pending the conclusion of the rule making, we will entertain requests for waivers of § 21.13(f). We will first authorize construction and, if appropriate, condition licensing upon receiving state certification. Such a condition will attach here if the Pass Word application is granted.

38. Both Pass Word and Coeur d'Alene have requested waivers of § 21.208(g) (2) of the rules to permit the operation of the proposed facilities during the normal rendition of service without the maintenance of an operational log. Because the automatic operation of the proposed facilities makes it impracticable to log such calls, waivers are appropriate.

C. NON-COMPARATIVE MATTERS

39. Finally, we note that Rodney J. Bacon d/b/a Coeur d'Alene Answering Service has two applications pending, its Kellogg proposal, File No. 20669-CD-P-76, which was discussed in Part B, and an application for additional facilities for KWU337 at Coeur d'Alene, File No. 20014-CD-P-76, which was discussed in Part A above. This latter application is not mutually exclusive with any other application, but although it will not be considered in the comparative hearing, a hearing on the need issue and basic qualifications will be necessary in view of the facts raised in Part A above.

D. CONCLUSION

40. We are hereby ordering a show cause proceeding. At the conclusion of the presentation of evidence on the issues of revocation, the Administrative Law Judge may request proposed findings and conclusions and he may issue an initial decision at that time. He may then also proceed to hear evidence on the basic issues with respect to the application of Courtesy Communications. These issues are set out in paragraph 45 below. If the ALJ resolves the revocation proceeding in favor of the licensees, Pass Word and Coeur d'Alene, he may prefer to hear evidence on the basic issues designated against all of the mutually exclusive applicants, before proceeding to the comparative aspects of the proceeding. The basic issues against Pass Word and Coeur d'Alene (hereinafter respondents) are listed in paragraph 47 (a) through (c). We note that this is merely a suggested approach and we advise the judge to exercise his discretion in structuring the hearing, in a manner that would be both expeditious and conducive to protecting the rights of the parties and the public interest. We are approaching the case in this manner for the reasons that all the parties will be before us and the administrative law judge and because we believe that greater delays would result if we were to issue further orders and reconvene the hearing at various stages of the proceeding.

41. *Accordingly, it is ordered,* That pursuant to the provisions of Section 312 (a) (1) of the Communications Act of 1934, as amended, (47 U.S.C. 312(a) (1)) Pass Word, Inc. is directed to show cause why an Order revoking its licenses should not be issued by appearing at a hearing to be specified and before a judge to be designated in a subsequent order, upon the following issues:

(a) To determine the facts surrounding the construction and operation of the 454 MHz facilities of station KMM697, authorized by this Commission on October 9, 1973, and whether the licensee was diligent in constructing and operating the facilities; and

(b) To determine if there were any misrepresentations or a lack of candor by Pass Word in its application for a license to cover the construction permit for KMM697, in subsequent filings relating to that application, and in the application and associated pleadings of Pass Word in File No. 20604-CD-P-(2)-76.

42. *It is further ordered,* That pursuant to the provisions of Section 312 (a) (1) of the Communications Act, Rodney J. Bacon d/b/a Coeur d'Alene Answering Service is directed to show cause why an Order revoking his licenses should not be issued by appearing at a hearing to be designated in a subsequent order, upon the following issues:

(a) To determine the facts surrounding the construction and operation of 454 MHz facilities of station KWU337, authorized by this Commission on January 28, 1974, and whether the licensee was diligent in constructing and operating the facilities; and

(b) To determine if there were misrepresentations or a lack of candor by Rodney J. Bacon in his application for a license to cover the construction permit for KWU337, and in his application, File No. 20014-CD-P-76; and

(c) To determine whether, in light of the information giving rise to the preceding questions in this and the preceding paragraph, the respondents possess the requisite qualifications to continue as licensees of the Commission.

43. *It is further ordered,* That Courtesy Communications, Inc. and the Chief, Common Carrier Bureau are made parties to this proceeding.

44. *It is further ordered,* That to avail themselves of the opportunity to be heard, the respondents and the parties listed in paragraph 43, supra, pursuant to § 1.91(c) of the Commission's rules, in person or by attorney, shall file with the Commission within thirty days of the receipt of the Order to Show Cause a written appearance stating that they will appear at the hearing and present evidence on the matters specified in the Order. If the respondents or principals thereof fail to file an appearance within the time specified, the right to a hearing shall be deemed to have been waived. (See § 1.92(a) of the Commission's rules). Where a hearing is waived, a written statement in mitigation or justification may be submitted within thirty days of the receipt of the Order to Show Cause. (See §1.92(b) of the Commission's rules.) In the event the right to a hearing is waived, the presiding officer, or the Chief Administrative Law Judge if no presiding officer has been designated, will terminate the hearing proceeding and certify the case to the Commission. Thereupon, the matter will be determined by the Commission in the regular course of business and an appropriate Order will be entered. (See § 1.92 (c) and (d) of the Commission's rules.)

45. *It is further ordered,* That pursuant to sections 309 (d) and (e) of the Communications Act, the captioned application of Courtesy Communications is designated for hearing upon the following issues:

(a) To determine in accordance with Section 21.516 the present and prospective channel loading of the two-way facilities presently assigned Courtesy to serve the Spokane, Washington, area;

(b) To determine whether Courtesy has filed a strike application; and

(c) To determine whether Courtesy is financially qualified to construct its proposed station and to operate such station for a reasonable time.

46. *It is further ordered,* That if as a result of the hearing on issues in Paragraphs 41 and 42, the licenses of both Pass Word and Coeur d'Alene Answering Service are revoked, the Administrative

Law Judge will hear evidence on issues (a), (b) and (c) of Paragraph 45 to determine whether a grant of the captioned application of Courtesy would be in the public interest, convenience and necessity. If, however, the licenses of either of the respondents are not revoked, then the issues in Paragraph 45 will be considered as part of a comparative hearing which is described in the following paragraph.

47. If the issues in paragraphs 41 and 42 are resolved in favor of either or both of the respondents: *Then it is further ordered,* That pursuant to sections 309 (d) and (e) of the Communications Act, the captioned applications of Pass Word, Courtesy Communications and Coeur d'Alene Answering Service (File No. 20669–CD–P–76) are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine in accordance with Section 21.516 the present and prospective channel loading of the two-way facilities presently assigned Pass Word to serve the Spokane, Washington area;

(b) To determine the basic need for the proposed service of Coeur d'Alene Answering Service in the Kellogg, Idaho area;

(c) To determine whether Coeur d'Alene has filed a strike application;

(d) To determine on a comparative basis, the nature and extent of service proposed by each applicant;

(e) To determine the total area and population to be served by Pass Word within the 39 dbu contour of its proposal, based upon the standards set forth in § 21.504 of the rules;

(f) To determine the total area and population to be served by Coeur d'Alene within the 39 dbu contour of its proposal, based upon the standards set forth in § 21.504 of the rules;

(g) To determine the total area and population to be served by Courtesy within the 39 dbu contour of its proposal, based upon the standards set forth in § 21.504 of the Rules; and

(h) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the above-captioned applications will best serve the public interest, convenience and necessity.

48. *It is further ordered,* That pursuant to section 309 (d) and (e), the application of Rodney J. Bacon d/b/a Coeur d'Alene Answering Service, File No. 20014–CD–P–76, is designated for hearing on the following issue:

(a) To determine whether, in light of the requirements of Section 21.516 and the evidence adduced pursuant to the foregoing issues, the grant of Coeur d'Alene's application for an additional channel for station KWU337 in Coeur d'Alene, Idaho is justified in the public interest.

49. *It is further ordered,* That the burden of proceeding with the evidence and the burden of proof on the issues listed in Paragraphs 41 (a) and (b) and Paragraphs 42 (a) and (b) are on the Common Carrier Bureau. The burden of proof on issue 42(c) is on the Common Carrier Bureau. The burden of proceeding with the evidence and the burden of proof on issues 45(a), 45(c), 47 (a), (b), (d), (e), (f) and (g), and 48(a), are placed on the respective parties. The burden of proceeding with the evidence on issue 45(b) is both the Common Carrier Bureau and Pass Word, and the burden of proof is on Courtesy.[2] The burden of proceeding with the evidence on issue 47(c) is on both the Common Carrier Bureau and Courtesy, and the burden of proof is on Coeur d'Alene Answering Service.[3]

50. *It is further ordered,* That the Secretary of the Commission send a copy of this Order by Certified Mail-Return Receipt Requested to Pass Word, Rodney J. Bacon d/b/a Coeur d-Alene Answering Service and the other parties listed in paragraph 43, supra.

FEDERAL COMMUNICATIONS COMMISSION.[4]
VINCENT J. MULLINS,
Secretary.

[FR Doc.30416 Filed 10-15-76;8:45 am]

[2] The burdens of proceeding and of proof are distributed in the manner indicated pursuant to the Communications Act, Section 309(e) and the FCC rules and regulations, § 1.254. Although we place the initial burden of proceeding on Petitioners and the Bureau, the burden of proof is placed on the applicants in recognition of the fact that the strike application issues are matters almost entirely within the knowledge of Courtesy and Coeur d'Alene, respectively. Elyria-Lorain Broadcasting Company, 6 Pike and Fisher RR 2d 191 (1965).

[4] Commissioner Fogarty and White not participating.

FEDERAL ENERGY ADMINISTRATION

ENERGY SUPPLY AND ENVIRONMENTAL COORDINATION ACT

Issuance of Construction Orders to Certain Powerplants

The Federal Energy Administration (FEA) hereby gives notice that on September 30, 1976, it issued construction orders, pursuant to the authorities granted to it by Section 2 of the Energy Supply and Environmental Coordination Act of 1974, (ESECA) (15 U.S.C. 791 et seq.), as amended by Pub. L. 94–163, and in accordance with 10 CFR Parts 303 and 307, to the following powerplants in the early planning process:

Docket No.	Owner	Generating station	Unit No.	Location
OCU-075-N	Appalachian Power Co	Project 1991		New Haven, W. Va.
OCU-076-N	Arizona Public Service Co	Intermediate 1 & 3 unit.		Unknown.
OCU-077-N	Basin Electric Power Coop	Beulah plant	1	Beulah, N. Dak.
OCU-078-N	do	do	2	Do.
OCU-079-N	do	Laramie River	1	Wheatland, Wyo.
OCU-080-N	do	do	2	Do.
OCU-081-N	do	do	3	Do.
OCU-082-N	Big Rivers Electric Corp	Robert Reid	R-2	Near Sebree, Ky.
OCU-083-N	Central Illinois Light Co	Duck Creek	2	Banner Township, Ill.
OCU-084-N	do	do	3	Do.
OCU-085-N	Central Louisiana Electric Co., Inc	Rodemacher	3	Near Boyce, La.
OCU-086-N	Cincinnati Gas & Electric Co	East Bend	3	Near Rabbit Hash, Ky.
OCU-087-N	Columbus & Southern Ohio Electric Co	E. M. Porter	5	Athens, Ohio.
OCU-088-N	do	do	6	Do.
OCU-089-N	Consumers Power Co	Unassigned unit, 1984		Unknown.
OCU-090-N	do	Unassigned unit, 1985		Do.
OCU-091-N	Brazos Electric Power Cooperative, Inc., and South Texas Electric Cooperative, Inc.	San Miguel	1	South of Christine, Tex.
OCU-092-N	Georgia Power Co	Scherer	2	Juliette, Ga.
OCU-093-N	do	do	3	Do.
OCU-094-N	do	do	4	Do.
OCU-095-N	Hoosier Energy Division, Indiana Statewide REC, Inc.	Merom	1	Near Merom, Ind.
OCU-096-N	do	do	2	Do.
OCU-097-N	Idaho Power Co	Pioneer	1	Orchard, Idaho.
OCU-098-N	do	do	2	Do.
OCU-099-N	City of Independence (Mo.), Power & Light Department.	Blue Valley	4	Independence, Mo.
OCU-100-N	Indianapolis Power & Light Co	New Plant	1	Near Patriot, Ind. (formerly unknown).
OCU-101-N	Intermountain Power Project	Intermountain Power Project.	1	Near Calneville, Utah.
OCU-102-N	do	do	2	Do.
OCU-103-N	do	do	3	Do.
OCU-104-N	do	do	4	Do.
OCU-105-N	Kentucky Utilities Co	Ghent	3	Ghent, Ky.
OCU-106-N	Lower Colorado River Authority	Fayette power project	2	LaGrange, Tex.
OCU-107-N	Northern States Power Co	Sherburne County (formerly 1981 fossil-fueled unit).	3	Becker, Minn.
OCU-108-N	do	Sherburne County (formerly 1983 fossil-fueled unit).	4	Do.
OCU-109-N	Pacific Power & Light Co	Roosevelt	1	West Roosevelt, Wash.
OCU-110-N	Pennsylvania Electric Co. and Jersey Central Power & Light Co.	Seward	7	Seward, Pa.
OCU-111-N	Potomac Electric Power Co	Dickerson	4	Dickerson, Md.
OCU-112-N	San Antonio City Public Service Board	Not determined		South or south-central Tex. (indefinite).
OCU-113-N	South Carolina Public Service Authority	Winyah	3	Georgetown, S.C.
OCU-114-N	Southwestern Public Service Co	South Plains	1	Unknown (formerly Lubbock County, Tex.).
OCU-115-N	do	do	2	Do.
OCU-116-N	Tampa Electric Co	Benson Key	1	Hillsborough County, Fla.
OCU-117-N	do	Big Bend	4	Ruskin, Fla.
OCU-118-N	Texas Power & Light Co., Texas Electric Service Co., and Dallas Power & Light Co. (Texas Utilities Generating Co.—agent/operator).	Forest Grove	1	Near Athens, Tex.
OCU-119-N	Texas Power & Light Co. and Aluminum Co. of America (Texas Utilities Generating Co.—agent/operator).	Sandow	4	Near Rockdale, Tex.

Docket No.	Owner	Generating station	Unit No.	Location
OCU-120-N	do	Twin Oak	1	Near Franklin, Tex.
OCU-121-N	do	do	2	Do.
OCU-122-N	Wisconsin Power & Light Co	Edgewater	5	Sheboygan, Wis.

By Notice of Intention published in the FEDERAL REGISTER on July 7, 1976, (41 FR 27869), FEA gave notice of its intention to issue construction orders to all of the above-listed powerplants in the early planning process. Written comments were requested on the proposed orders. No comments were received by FEA during the period provided for comment. These orders will require the above-listed powerplants in the early planning process to be designed and constructed so as to be capable of using coal as their primary energy source. A construction order will not become effective, however, until FEA has considered the environmental impact of such order pursuant to 10 CFR 208.3(a)(4) and 307.7 and has served the affected powerplant with a Notice of Effectiveness, as provided in §§ 303.10(b), 303.47(b) and 307.5 of the FEA regulations implementing section 2 of ESECA. Section 307.7 requires that prior to the issuance of a Notice of Effectiveness, FEA shall perform an analysis of the environmental impact of the issuance of such Notice of Effectiveness.

All of the above-listed powerplants in the early planning process have been served construction orders by registered mail. In addition, copies of these construction orders will be on display for any interested members of the public at the FEA public reading room located in Room 2107, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. Copies will also be on display in the appropriate FEA regional office.

Any questions regarding this notice should be directed to Mr. Bill Lemeshewsky, Office of Coal Utilization, Federal Energy Administration, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461, (202) 566-9705.

Issued in Washington, D.C., October 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-30364 Filed 10-13-76;11:25 am]

ENERCO, INC.

Issuance of Order Assigning Propane for Synthetic Natural Gas Enrichment

The Federal Energy Administration (FEA) hereby gives notice that on October 6, 1976, FEA issued a Decision and Order to Enerco, Inc. (Enerco), Honolulu, Hawaii, assigning the Hawaiian Independent Refinery, Inc., as a base period supplier of propane for the elevation of the British thermal unit (Btu) enrichment of synthetic natural gas (SNG) produced at Enerco's Barbers Point, Oahu, SNG facility.

FEA issued the October 6, 1976, Decision and Order pursuant to 10 CFR 211.12(e), 205.30 et seq. and 211.83(c). Enerco's Barbers Point SNG manufacturing facility uses naphtha feedstock in the reforming process. SNG produced in the reforming process has a Btu heating value inferior to that required by the design specifications of Enerco's customers. The propane enrichment stream injected into the SNG after the reforming stage provides the necessary additional Btu content to upgrade the SNG to meet these quality standards. In accordance with the October 6, 1976, Decision and Order, Enerco is allowed to purchase and use 22,750 barrels of propane in any quarterly period corresponding to a base period, subject to the allocation level of ninety (90) percent of the base period use, or 20,475 barrels of propane in any period corresponding to a base period (22,750 barrels×.90=20,475 barrels). The effective date of the Decision and Order was October 1, 1976.

In issuing the Decision and Order, FEA determined that the denial of the assignment would impose undue hardship and economic distortion on the operation of Enerco's SNG facility and would have a negative impact upon the public health, safety and welfare of Enerco's customers.

Copies of the October 6, 1976, Decision and Order are available for public viewing at the FEA Freedom of Information Library, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

In accordance with the provisions of 10 CFR Part 205, an aggrieved party may file an appeal of this Decision and Order with the Federal Energy Administration. The provisions of 10 CFR Part 205, Subpart H, set forth the procedures and criteria which govern the filing and determination of any such appeal. For purposes of these regulations, the date of service of notice shall be deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

OCTOBER 12, 1976.

[FR Doc.76-30365 Filed 10-13-76;11:24 am]

OFFICE OF EXCEPTIONS AND APPEALS

Issuance of Decisions and Orders; Week of August 23 through August 27, 1976

Notice is hereby given that during the week of August 23 through August 27, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Amoco Oil Co.; Mandan, N.Dak.; FEA-0856; Crude Oil

The Amoco Oil Company (Amoco) appealed from a Decision and Order which had been issued to it by the FEA on May 12, 1976. Amoco Oil Co., 3 FEA Par. 83,185 (May 12, 1976). In the May 12 Decision the FEA denied an Application for Exception which Amoco had previously filed in which it requested that a refinery which it operates in Mandan, North Dakota be designated as a first priority refinery for purposes of the FEA Mandatory Canadian Crude Oil Allocation Program (10 CFR Part 214). In its Appeal, Amoco contended that the FEA had erred in considering the operations of the entire firm rather than the operations of the Mandan refinery alone in determining whether Amoco was experiencing a serious hardship. Amoco also contended that the FEA had erred in finding that Amoco had not demonstrated that either the firm or third parties were experiencing a gross inequity as a result of the Mandatory Canadian Crude Oil Allocation Program. In considering Amoco's Appeal, the FEA found that despite requests by the FEA for additional financial information, Amoco had failed to furnish any data upon which the FEA could evaluate its claim of serious hardship with respect to the Mandan refinery operations. The FEA also noted that Amoco's crude oil supply difficulties are considerably less severe than those encountered by first priority refineries and are not disproportionate to those encountered by other second priority refineries. Although exception relief might well be appropriate if a showing were made that a community would experience severe economic dislocations as a result of the application of FEA regulatory requirements which led a refinery to terminate its operations, the FEA determined that Amoco had made no showing that economic considerations would in fact lead it to close the Mandan refinery if exception relief were not approved. The FEA therefore concluded that Amoco had failed to demonstrate that the Decision and Order which was issued to the firm on May 12, 1976 was in any way erroneous. The Amoco Appeal was therefore denied.

Consumers Fuel Co., Inc.; Martinsburg, W. Va.; FEA-0921; Heating Oil

Consumers Fuel Company, Inc. (Consumers) appealed from a Remedial Order which the Regional Administrator of FEA Region III issued to the firm on June 23, 1976. In the Remedial Order Consumers was directed to make refunds to its customers for overcharges which were imposed in heating oil sales transactions during the period November 6, 1973 through July 16, 1974. Since Consumers failed to file its Appeal in a timely matter or demonstrate good cause for the impermissible delay, the Appeal was summarily denied in accordance with the provisions of 10 CFR 205.106(b)(1)(i).

Lehigh Oil Co., Inc.; Norwich, Conn.; FEA-0859; Motor Gasoline

The Lehigh Oil Company, Inc. (Lehigh) appealed from an Interpretation which was issued to it by the Regional Counsel of FEA Region I. In the Interpretation the Regional Counsel held that BP Oil Inc. could properly designate a substitute supplier to furnish motor gasoline to eight retail stations operated by Lehigh under the provisions of 10 CFR 211.25, as clarified by the FEA's decision in Whitco, Inc., 2 FEA Par. 83,170 (June 9, 1975). The Lehigh Appeal, if granted,

would result in a determination that the supplier substitution under the particular facts presented was improper and the issuance of an Assignment Order requiring BP to furnish motor gasoline directly to a wholesale terminal which Lehigh operates. In considering the Appeal, the FEA noted that under the provisions of 10 CFR 211.106(b)(1) each retail motor gasoline sales outlet is considered to be a separate firm for purposes of the FEA Allocation Regulations. The Interpretation therefore correctly found that the Assignment Orders which required BP to furnish motor gasoline to the Lehigh stations were appropriately issued to the eight separate retail outlets rather than to Lehigh's wholesale terminal. Since the further determination was reached that Lehigh failed to present any evidence which would indicate that the prices charged by the Gibbs Oil Company (Gibbs) as a substitute supplier for BP were discriminatory or posed any threat to the economic viability of the eight Lehigh stations. With respect to the designation of a substitute supplier the FEA found that a valid economic reason existed for the supplier substitution arrangement between BP and Gibbs since BP does not have any facilities through which it can provide motor gasoline directly to retail outlets in the New England area. The FEA further determined that BP's selection of Gibbs as the substitute supplier was consistent with BP's normal business practices since Gibbs has been a historical distributor for BP products in New England. Since the further determination was reached, the FEA concluded that Lehigh failed to demonstrate that the Interpretation was erroneous and the Appeal was accordingly denied.

Union Oil Co. of California; Los Angeles, Calif.; FEA-0821; JP-4 Aviation Fuel

The Union Oil Company of California (Union) filed an Appeal from a Decision and Order which the FEA issued to the firm on April 2, 1976. Union Oil Co. of California, 3 FEA Par. 83,155 (April 2, 1976). In that case the FEA denied an exception application in which Union requested that it be permitted to increase its selling price for JP-4 aviation fuel above the maximum allowable price determined in accordance with the provisions of § 212.83. Union's Appeal would result in the issuance of an order granting the exception relief originally requested. In considering Union's Appeal, the FEA found that during the first six months of 1973 and on May 15, 1973 the price at which Union sold JP-4 aviation fuel to the Defense Fuel Supply Center, the largest domestic purchaser of that product, was competitive with the prices charged for JP-4 fuel by other major oil companies in Southern California. The FEA therefore concluded that Union had failed to demonstrate that its selling price for JP-4 fuel was inordinately low on the base period reference date of May 15, 1973. The Union Appeal was therefore denied.

REQUESTS FOR EXCEPTION

Arizona Fuels Corp.; Salt Lake City, Utah; FEE-2239; Crude Oil

Arizona Fuels Corporation (Arizona Fuels) filed an Application for Exception from the provisions of 10 CFR 211.63 which, if granted, would permit the firm to purchase an additional quantity of the crude oil which the Tenneco Oil Company (Tenneco) is producing from the Upper Valley Escalanate Field in Garfield County, Utah. Under the current provisions of § 211.63(b)(1), Tenneco is obligated to supply the crude oil involved to Arizona Fuels, Phillips Petroleum Company (Phillips) and the Standard Oil Company of Indiana (Amoco) according to the proportion of crude oil which each firm was receiving on December 1, 1973. In considering the exception request, the FEA determined the factual situation which Arizona Fuels was encountering was similar to the basis upon which exception relief had previously been granted in Famariss Oil and Refining Co.; Navajo Refining Co., 1 FEA Par. 20,629 (July 22, 1974), and Saber Refining Co., 1 FEA Par. 20,736 (December 13, 1974). The FEA found that the Arizona Fuels refinery was particularly dependent upon the asphalt-based crude oil produced from the Upper Valley Escalante Field and that Arizona Fuels had substantially expanded the refinery in 1973 based upon the reasonable expectation that it would receive crude oil produced from the Escalante Field. After considering these factors, the financial impact on Arizona Fuels of the particular regulatory provision from which exception relief was requested, and the potential adverse impact on other firms who are involved in this proceeding, the FEA concluded that exception relief was warranted on the basis of previous precedents. Accordingly, an order was entered which permitted Arizona Fuels to purchase 2,000 barrels per day of crude oil produced by Tenneco from the Upper Valley Escalante Field.

Brown's Towing Service; Monroeville, Penn.; FEE-2640; Motor Gasoline

Brown's Towing Service (Brown) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the assignment of a new supplier of motor gasoline to replace Brown's base period supplier, the Atlantic Richfield Company (Arco). In its submission, Brown requested that Exxon Company, U.S.A. (Exxon) be designated as the new supplier. In considering Brown's exception application, the FEA found that it is necessary for Brown to make a substantial expenditure to replace outmoded equipment at the retail gasoline station which it operates in order to continue to resell motor gasoline at its present location. In addition, it appeared that Brown's limited financial resources effectively prevented the firm itself from making the required capital investments and Arco, its present supplier, was unwilling to do so. On the other hand Exxon was willing to renovate the Brown station and make the required investment if it were assigned to replace Arco as Brown's base period supplier. Since Arco did not claim that it would be adversely affected in any significant manner if Brown were assigned to Exxon, the FEA determined that Exxon should be permanently assigned to supply Brown so the required capital investments might be made and Brown could continue to operate the service station. The exception application was therefore granted.

Champlin Petroleum Co.; Fort Worth, Tex.; FEE-2423; Refined Petroleum Products

Champlin Petroleum Company filed an Application for Exception from the provisions of § 212.82 of the Mandatory Petroleum Price Regulations. The exception request, if granted, would permit Champlin to consider certain "commission" dealers which sell the refined petroleum products Champlin produces as independent retailers rather than as part of the Champlin firm. In considering the Champlin application, the FEA determined that Champlin has historically treated the commission dealers as independent retailers who purchased petroleum products from Champlin at a specific price and assumed the risk of loss or damage to the product after the passage of title. Moreover, Champlin's contracts with the commission dealers state that the dealers may independently establish their markups and retail selling prices. On the basis of these factors the FEA therefore concluded that Champlin does not maintain any meaningful control over the retail prices charged by the dealers, and does not receive any benefit from the specific retail prices charged by the dealers. In view of the independence with which the commission dealers operate and their exclusive right to determine their retail selling prices, the FEA determined that Champlin does not directly or indirectly control the commission dealers within the meaning of the term "firm" as defined in § 212.82. The FEA further concluded that since the commission dealers are independent retailers rather than a part of the Champlin firm, the particular exception relief which Champlin requested was unnecessary. Champlin's Application for Exception was accordingly dismissed without prejudice.

Damson Oil Corp., Houston, Tex.; FEE-2[illegible] Crude Oil

Damson Oil Corporation (Damson) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which if granted would permit it to sell the crude oil produced from the City of Los Angeles Lease No. 135 in the Venice Beach Field in Los Angeles, California at upper tier ceiling prices. In considering Damson's exception application, the FEA determined that the costs of producing crude oil from the Lease have increased significantly since May 15, 1973 and as a result, the firm's production costs substantially exceed the lower tier ceiling price for crude oil which Damson is permitted to charge pursuant to FEA Regulations. The FEA therefore concluded that Damson lacks an economic incentive to continue to operate Lease No. 135. On the basis of precedents established in previous FEA Decisions involving similar factual circumstances, the FEA granted exception relief to Damson which permits the firm to sell 10 percent of the crude oil which it produces from the Lease at upper tier ceiling prices.

Frank H. McGehee; Natchez, Miss., FEE-2769; Crude Oil

Frank H. McGehee (McGehee) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The request, if granted would permit the working interest owners of the USA 26-6 Well (the Well) to sell the crude oil produced from the Well at upper tier ceiling prices. In considering the exception application, the FEA found that contrary to the assertions advanced in the firm's Application, the working interest owners of the Well are currently realizing a per barrel profit of $1.25, and therefore have no economic incentive to abandon production. On the basis of these findings the FEA concluded that McGehee had failed to show that the application of the lower tier ceiling price rule adversely affected the firm in any significant manner or caused it to experience a serious financial hardship. Accordingly, the exception request was denied.

Midcoast Aviation Services, Inc.; St. Louis, Mo. FEE-2486; Aviation Fuels

Midcoast Aviation Services, Inc., a fixed-base operator at Lambert Field in St. Louis, Missouri, filed an Application for Exception from the provision of 10 CFR 212.94 which, if granted, would permit the firm to increase its ceiling prices for aviation fuels above the maximum permissible levels to reflect the non-product cost increases which it has incurred since May 15, 1973. In considering the exception request, the FEA determined that Midcoast has incurred non-product cost increases in excess of the $.04 per gallon which it is permitted under § 212.93 to pass through to its customers. However, the FEA also found that as a result of an expansion of Midcoast's facilities and an increase in its maintenance service activities the firm had significantly

increased its revenues and had earned record profits in its 1976 fiscal year. In addition, Midcoast indicated that contrary to its prior experience, it would be able to purchase surplus jet fuel during future periods. Accordingly, the firm's financial projections showed that it would be able to continue to increase its sales of jet fuel and maintain its profits in excess of historical levels. In view of these factors, the FEA concluded that Midcoast had not demonstrated that the limitation of the passthrough of non-product costs imposed by § 212.94 adversely affected the firm in any significant manner or caused it to experience a serious financial hardship. Accordingly, Midcoast's exception request was denied.

Northern Natural Gas Co.; Omaha, Nebr.; FEE–2717; Natural Gas Liquids

The Northern Natural Gas Company (Northern) filed an Application for Exception from the provisions of Section 212.165 of the FEA Mandatory Petroleum Price Regulations. The exception request, if granted, would permit Northern to increase its selling prices for the natural gas liquids which it produces at its No. 1 and No. 2 natural gas processing plants in Martin County, Texas in excess of the levels permitted by § 212.165. In a number of previous Decisions, the FEA determined that as a general rule exception relief would be granted to any natural gas processor which could demonstrate that the non-product costs which it has incurred since May 1973 have increased substantially in excess of the passthrough already permitted under the provisions of § 212.165. Based on an analysis of the data presented by Northern, the FEA determined that the firm's Martin County, Texas plants qualified for exception relief under this standard and appropriate relief for those plants was therefore approved for the period August 27, 1976 through September 30, 1976.

Sav-A-Ton, Inc.; Augusta, Ga.; FEE–2472; Motor Gasoline

Sav-A-Ton, Inc. filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would have resulted in the issuance of FEA orders increasing the firm's annual base period use of motor gasoline for the retail service stations it operates from 38,666,917 gallons to 66,000,000 gallons and assigning a new supplier to furnish the increased volume. In considering the Sav-A-Ton exception request the FEA found that Sav-A-Ton had previously been granted adjustments to its base period use of motor gasoline to account for the stations it currently operates which were under construction in 1972. The FEA determined that as a result of those previous adjustments and the ability of Sav-A-Ton to purchase surplus motor gasoline, Sav-A-Ton's average sales volumes per station had increased on an annualized basis by more than 38 percent between 1972 and the first five months of 1976. The FEA also found that the firm had presented no convincing evidence that it was experiencing any increased demand as a result of its self-service marketing strategy, or that any population growth which may have occurred in the areas where Sav-A-Ton's stations are located had significantly changed the firm's operations. Finally, the FEA concluded that Sav-A-Ton provided no evidence that its customers or the communities which it serves were experiencing any supply problems as a result of Sav-A-Ton's adjusted base period use of motor gasoline. The Application for Exception was therefore denied.

Shields Oil Producers, Inc., Russel, Kans., FEE–2790; Crude Oil

Shields Oil Producers, Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The request, if granted, would permit the working interest owners of the Dickman Lease to sell the crude oil produced from the Lease at upper tier ceiling prices. In considering the exception application, the FEA found that the working interest owners of the Lease are currently realizing a per barrel operating profit of $1.04. Consequently there appeared to be no foundation to the firm's contention that it did not have an economic incentive to continue production from the Lease. The FEA therefore determined that Shields had failed to satisfy the criteria set forth in previous cases under which exception relief from the FEA Price Regulations had been granted to crude oil producers. Accordingly, the firm's exception request was denied.

Standard Oil Co. of Indiana; Chicago, Ill.; FEE–2714, FEE–2715, FEE–2716; Natural Gas Liquids

The Standard Oil Company of Indiana (Amoco) filed Applications for Exception from the provisions of 10 CFR 212.165, which, if granted, would permit the firm to increase the prices which it charges for natural gas liquids and natural gas liquid products at its Luby, Old Ocean and North Cowden gas processing plants. In considering these applications, the FEA noted that as a general rule exception relief is granted to any gas processing plant which can demonstrate that the non-product costs which it has experienced since May 1973 have increased materially in excess of the $.005 per gallon passthrough permitted under § 212.165. See Superior Oil Co., 2 FEA Par. 80,271 (August 29, 1975). The FEA found that Amoco had made such a showing with respect to its Luby, Old Ocean and North Cowden plants and granted the firm appropriate exception relief with respect to each of the plants for the period August 27, 1976 through September 30, 1976.

UCO Oil Co.; Martinez, Calif.; FEE–2316; Motor Gasoline

UCO Oil Company (UCO) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the issuance of orders by the FEA assigning UCO a new supplier of motor gasoline to replace one of its base period suppliers. The Oil Shale Corporation (Tosco). The new supplier would also be directed to furnish UCO with that portion of its base period use of motor gasoline previously provided by Tosco. In its exception application, UCO claimed that the motor gasoline transported to UCO's Martinez, California bulk plant by pipeline from Tosco's Avon, California refinery contained excessive amounts of ethane and propane. UCO stated that as a consequence it was placed in a situation in which it was violating applicable state air pollution emission regulations. In considering UCO's exception request the FEA noted that a stay had been granted which effectively relieved UCO of the obligation to comply with state pollution requirements until it can install a tail gas oxidizer. Since UCO made no showing that it was in any way incurring a serious hardship or gross inequity as a result of the FEA regulatory program, the firm's exception application was denied.

Vaughey and Vaughey Oil Producers; Denver, Colo.; FEE–2764; Crude Oil

Vaughey and Vaughey Oil Producers (Vaughey) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The request, if granted would permit Vaughey to sell the oil produced from Wells 13–25 and 5–25 in the Lowry Bombing Range Field (the Wells) at upper tier ceiling prices. In considering the exception application, the FEA found that production from the wells had been declining and the firm's operating costs had been increasing to the point where Vaughey no longer had an economic incentive to continue production of crude oil from the Wells at lower tier ceiling prices. The FEA further found that if Vaughey abandoned the Wells, a substantial quantity of crude oil would be unrecovered. On the basis of the criteria which it applied in previous similar cases, the FEA concluded that exception relief should be granted and that Vaughey should be permitted to sell 100 percent of the crude oil produced from the Wells for the benefit of the working interest owners at upper tier ceiling prices.

REQUEST FOR MODIFICATION OR RESCISSION

Golden Eagle Refining Co., Inc.; Los Angeles, Calif.; FMR–0045; Motor Gasoline

The Golden Eagle Refining Company, Inc. filed an Application for Modification or Rescission of two previous Decisions and Orders which the FEA had issued to The Oil Shale Corporation. The Oil Shale Corp., 2 FEA Par. 83,169 (June 10, 1975); and The Oil Shale Corp., 2 FEA Par. 80,673 (August 29, 1975). In those Decisions, the FEA granted TOSCO various types of exception relief which enabled it to purchase the Avon refinery and related assets from the Phillips Petroleum Company. In particular, the FEA permitted TOSCO to use its base price instead of Phillips' base price in computing maximum permissible prices for refined petroleum products in those instances where Phillips and TOSCO have sold the same refined product to the same market. Since Golden Eagle is a member of a class of purchaser to which both Phillips and TOSCO sold refined products prior to TOSCO's acquisition of the Avon refinery, TOSCO was permitted to use its base prices for motor gasoline in computing its maximum allowable prices for sales of motor gasoline to Golden Eagle. In its present submission, Golden Eagle claimed that the cost of the motor gasoline which it purchases from TOSCO had increased subsequent to TOSCO's purchase of the Avon refinery and this price increase constituted a "significantly changed circumstance" which warranted the rescission of the two previous Orders. Golden Eagle asserted that the two prior Orders had been based on an assumption that the former customers of the Avon refinery would not be adversely affected by TOSCO's acquisition of the assets. In evaluating the Golden Eagle submission the FEA noted that even though Golden Eagle had been paying a higher price for motor gasoline subject to the date on which TOSCO acquired the Avon refinery from Phillips, Golden Eagle's competitive and financial position had nevertheless improved somewhat since that time. Accordingly, a convincing showing had not been made that the applicable price increases had in turn resulted in any actual injury to Golden Eagle. Moreover, the FEA observed that in its analysis of the effects of the acquisition of the Avon refinery by TOSCO in the prior decisions, it had explicitly recognized that TOSCO's prices could rise in certain situations since the pricing characteristics of an independent refiner are different from those of an major integrated oil company such as Phillips. In addition, the price increases to which Golden Eagle referred in its Application were not significant and were well within the scope of the increases which were contemplated in the prior Decisions and Orders. The FEA also found no factual support for Golden Eagle's contention that TOSCO's financial condition had improved and therefore price reductions in sales of motor gasoline to Golden Eagle were possible. The FEA therefore determined that

Golden Eagle had not met the criteria set forth in § 205.135, and accordingly the firm's Application for Modification or Rescission was denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

R. G. Berry Co.; Tulsa, Okla.; FEE–2786
Redd Fuel Co., Inc.; Boston, Mass.; FEA–0927, FES–0927
Texas International Airlines, Inc.; Houston, Tex.; FEE–2690

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Great Atlantic & Pacific Acroplane Co.; Van Nuys, Calif.; FEE–2780, FEE–2781
Porter Sesnon; San Francisco, Calif.; FEE–2785

The following submissions were dismissed after the applicants repeatedly failed to respond to requests for additional information:

Getty Oil Co.; Los Angeles, Calif.; FEE–2794 through FEE–2817
Hanover Management Co.; Dallas, Tex.; FEE–2576

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Bill L. Hammond; Cassville, Mo.; FEE–2694

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines", a commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

OCTOBER 12, 1976.

[FR Doc.76-30367 Filed 10-13-76;11:25 am]

OFFICE OF EXCEPTIONS AND APPEALS

Issuance of Decisions and Orders; Week of August 30 through September 3, 1976

Notice is hereby given that during the week of August 30 through September 3, 1976, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Mobil Oil Corp.; New York, N.Y.; FEA–0922 Hays, Landsman and Head; New York, N.Y.; FEA–0923; Freedom of Information

The Mobile Oil Corporation and Hays, Landsman & Head (Hays) appealed from separate Orders in which the FEA denied in part Requests for Information which the firms had submitted under the Freedom of Information Act, 5 U.S.C. 552. In their requests, both firms had sought the release of the entire FEA Compliance Manual (the Manual). In response to the requests, the FEA Information Access Officer released a large portion of the Manual, but determined that various materials should be withheld. These materials included parts of the manual which he determined constituted sensitive law enforcement material which were exempt from public disclosure under section 552(b) (2) of the Act because their release would enable firms subject to FEA regulations to circumvent the law and escape detection. Mobil and Hays contended that the determination reached was erroneous and that the (b) (2) exemption was not applicable to these materials. In considering the Appeals, the FEA noted that in a recent court decision involving the FEA Compliance Manual, the United States District Court for the District of Columbia held that agency manuals which discuss sensitive investigative strategy are properly within the scope of the second exemption to the Freedom of Information Act. *Ginsburg, Feldman & Bress v. FEA,* ____ F. Supp. ____, Civil Action No. 76-27 (D.D.C. 1976). Since substantially all of the material which the appellants sought consisted of investigatory techniques and procedures which if released could lead potential law violators to become aware of the most effective means of evading detection or frustrating legitimate investigations, the FEA held that the material involved was correctly found to be exempt from mandatory public disclosure under section 552(b) (2). The FEA also found that certain sections of the Manual and a list of titles of the Refinery Audit Review Program Audit Modules did not contain investigatory techniques or procedures and were therefore subject to mandatory public disclosure. Consequently, the Information Access Officer was directed to disclose copies of those items. The Appeals were denied in all other respects.

Taiga Energy, Inc.; Denver, Colo.; FEA–0836; Crude Oil

Taiga Energy, Inc. filed an Appeal from a Remedial Order which the Regional Administrator of FEA Region VIII issued to the firm on June 24, 1976. In that Order the Regional Administrator found that during the period November 1, 1973 through December 31, 1973 Taiga sold at least 11,663 barrels of crude oil at price levels which were in excess of the maximum permissible selling prices established pursuant to the provisions of 6 CFR 150.343 and 10 CFR 212.73. On the basis of these findings, Taiga was directed to refund $59,581.50 plus interest to its customers to compensate them for previous overcharges. In considering the Taiga Appeal, the FEA noted that one of the principal elements of the prior proceeding was the finding that Taiga had improperly applied the term "property" as set forth in 10 CFR 212.31 in computing its base production control level. However, on August 20, 1976 the FEA issued amended regulations regarding the application of the Mandatory Petroleum Price Regulations to first sales of domestic crude oil. 41 FR 36,172 (August 26, 1976). In the Preamble to those regulations, the FEA specified in detail the manner in which the term "property" should have been applied in the past and should be applied in the future. Under the terms of the clarification and in view of the factual information contained in the Remedial Order it appeared that the manner in which Taiga applied the term "property" might not have been improper. The Remedial Order was therefore remanded to the Regional Administrator for further findings on the basis of the recent regulatory developments.

REQUESTS FOR EXCEPTIONS

C. D. Hollingsworth and Associates; Natchez, Miss.; FEE–2345; Crude Oil

C. D. Hollingsworth and Associates (Hollingsworth) filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D, which, if granted, would permit it to use a base production control level for three wells which it operates in the South Providence Field, Franklin County, Mississippi which is lower than the control level specified in the FEA Regulations. Hollingsworth would thereby be permitted to sell a greater proportion of the crude oil produced from its three wells at upper tier ceiling prices. In its submission Hollingsworth contended that it had been adversely affected by recent regulatory changes which benefitted neighboring properties in the South Providence Field. It claimed that it was unable to avail itself of similar benefits because it had undertaken an enhanced recovery operation during 1975. In considering the Hollingsworth Application, the FEA found that Hollingsworth's enhanced recovery operations had effectively eliminated the cumulative deficiencies which had accrued on its producing properties. Hollingsworth thereby was able to produce and sell substantial amounts of new and released crude oil in 1976. The firm also realized substantial revenues from the sale of new oil in 1976 at upper tier ceiling price levels. Accordingly, Hollingsworth had received significant financial benefits from the recovery operation which it undertook in 1975, and the benefits which neighboring properties may have received from the regulatory changes to which Hollingsworth referred were unrelated to Hollingsworth's situation. Since the firm's contention that it was adversely affected by the FEA regulatory program was found to have no merit, its exception request was denied.

Farmland Industries, Inc.; Kansas City, Mo.; FEE–2788; Natural Gas Liquid Products

Farmland Industries, Inc. filed an Application for Exception in which it requested that the exception relief which had previously been granted to the firm on June 7, 1976 be extended for an additional period of time. Farmland Industries, Inc., 3 FEA Par. 83,214 (June 7, 1976). In the June 7 Decision, the FEA determined that Farmland would experience a gross inequity as a result of the pricing provisions of 10 CFR, Part 212, Subpart K, and that exception relief should be granted which would permit Farmland to increase the prices which it charges for natural gas liquid products produced at three of its plants. In considering Farmland's request for an extension of exception relief, the FEA determined that the firm incurred non-product unit cost increases in the third fiscal quarter of 1976 at four of its plants which substantially exceeded the 0.605 per gallon passthrough permitted under the provisions of § 212.165. Based upon the criteria set forth in Sun Oil Co., 3 FEA Par. 83, 102 (February 13, 1976); Shell Oil Co., 3 FEA Par. 83,049 (December 15, 1975); and Superior Oil Co., 2 FEA Par. 83,271 (August 29, 1975), the FEA determined that exception relief should be granted for the period September 1, 1976 to November 30, 1976.

Frank H. McGehee; Natchez, Miss.; FEE–2462; Crude Oil

Frank H. McGehee (McGehee) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which if granted, would permit McGehee to sell crude oil produced from the Supervisors 2–27 Well (the Well) at upper tier ceiling prices. In considering McGehee's exception request, the FEA determined that: (1) The costs of producing crude oil from the Well have increased

significantly since 1972; (ii) as a result of these cost increases, McGehee's production costs now exceed the price which the firm is permitted to charge for the crude oil which it sells; and (iii) consequently, McGehee does not have an economic incentive to continue to operate the Well. The FEA also found that since the Well is the only facility currently extracting crude oil from the reservoir on which it is located, the nation would be deprived of the recoverable crude oil at the site if exception relief is not approved and the well is closed in. On the basis of previous precedents involving similar factual findings, the FEA concluded that the application of the lower tier ceiling price rule in this case resulted in a gross inequity. Accordingly, McGehee was granted exception relief which permits him to sell at upper tier ceiling prices 32.595 percent of the crude oil produced and sold for the benefit of the working interest owners.

Jones and Murtha Distributing Co., Inc.; Puyallup, Wash.; FEE–2417; Motor Gasoline

Jones and Murtha Distributing Co., Inc. (J&M) filed an Application for Exception from the provisions of 10 CFR Part 211, which if granted, would result in the issuance of an order assigning J&M a new, lower-priced supplier of motor gasoline to replace its base period supplier, the Lion Oil Company (Lion), a subsidiary of The Oil Shale Corporation (TOSCO). J&M further requested that the FEA permanently assign as its new supplier a major oil company which would extend to J&M the use of its brand name and credit card privileges. Prior to March 23, 1976 J&M had operated as a consignee agent of the Phillips Petroleum Company (Phillips) and qualified as a branded dealer of Phillips' products. However, pursuant to an order entered by the U.S. District Court for the Central District of California, Phillips divested itself of its Avon, California refinery and related marketing operations which included those serving J&M. TOSCO acquired those operations and on March 23, 1976, the FEA assigned TOSCO to replace Phillips as J&M's supplier. The Oil Shale Corp., 3 FEA Par. 83,139 (March 23, 1976). In considering the J&M Application, the FEA found that the firm's acquisition cost for motor gasoline increased by 2.008 cents per gallon when Lion replaced Phillips as the firm's supplier. The FEA further found that as a result of this price increase and the competitive market conditions in J&M's market area, J&M had been forced to substantially reduce the mark-up which it historically applied in its sales of motor gasoline in order to preserve competitive selling price levels. Under these circumstances and based on J&M's historical operating results, the FEA concluded that the firm would experience a serious financial hardship unless exception relief were granted to permit J&M to purchase motor gasoline from a lower-priced supplier. In accordance with the precedent established in previous cases, J&M was therefore granted exception relief which permits it to be assigned a new, lower-cost supplier for its entire base period use of motor gasoline for a three month period. With respect to J&M's request that it be assigned a major oil company as its supplier on a permanent basis, the FEA concluded that J&M had known for a considerable period of time prior to the implementation of the FEA allocation regulations that its relationship with Phillips would be terminated. Nevertheless, J&M had apparently not taken any affirmative action prior to the time Lion became its supplier to establish a branded relationship with another major oil company. Accordingly, the FEA Regulations were not the source of any difficulty the firm may be experiencing in this regard, and this portion of J&M's request was denied.

REQUESTS FOR STAY

Linden's Propane, Inc.; La Grange, Ohio; FES–0909; Propane

Linden's Propane, Inc. (Linden) requested that a Remedial Order isued to the firm on July 7, 1976 be stayed pending a final determination of the firm's Appeal from that Order. In the Remedial Order, the FEA determined that Linden had sold propane to its customers at prices which exceeded the maximum permissible levels specified in 6 CFR 150.359 and 10 CFR 212.93. The further finding was made that Linden had improperly charged certain of its customers storage tank rental fees in violation of 10 CFR 210.-62(c) and 212.93. The Remedial Order directed Linden to reduce its maximum lawful selling prices or its actual selling prices on June 25, 1976, whichever are lower, by two cents per gallon until the firm has refunded previous overcharges. In addition, Linden was directed to refund the storage tank rental fees which it had charged. In considering the contentions raised by Linden that the Remedial Order should be stayed, the FEA applied the principles previously established in General Crude Oil Company, 3 FEA Part. 85,040 (June 25, 1976), modified, 3 FEA Par. 85,040 (July 8, 1976). On the basis of these principles, the FEA concluded that a stay should be granted with regard to the refund provisions of the Remedial Order. The FEA further concluded however that, in accordance with the considerations discussed in General Crude, the stay should be conditioned upon Linden's establishing an escrow account into which it is required to place the amount of the refunds contemplated by the Remedial Order and the amount of the storage tank rental fees which must be refunded under the terms of the Order. The FEA declined however to stay the remaining provisions of the Remedial Order. In particular, the FEA determined that the requirement that Linden immediately reduce its current selling prices to lawful levels should remain in effect. In addition, Linden had not substantiated its claim of inordinate difficulty and accordingly its request for stay was denied with respect to those provisions of the Remedial Order which required it to make certain price recalculations.

Louisiana Land and Exploration Co.; New Orleans, La.; FES–2845; Crude oil Allocation

The Louisiana Land and Exploration Company (LL&E) requested that the requirements of § 211.63(b) of the FEA Mandatory Petroleum Allocation Regulations be stayed insofar as they apply to crude oil which LL&E produces and sells to the Exxon Company, U.S.A. (Exxon) from the Jay-Little Escambia Creek field in northwestern Florida. The stay was requested pending a determination by the FEA with respect to an application for an extension of exception relief which LL&E had previously filed. In previous Orders granting exception relief to LL&E, the FEA noted that LL&E had recently opened a new refinery in Mobile, Alabama which was expressly designed to use crude oil produced from the Jay Field. The FEA also found that if the firm were obliged to adhere to the FEA regulatory requirement and sell all of its Jay Field crude oil production to Exxon, LL&E's ability to operate, its new refinery would be severely hampered. See, Louisiana Land and Exploration Company, 2 FEA Par. 83 339 (October 22, 1975); Louisiana Land and Exploration Company, 3 FEA Par. 85,586 (Februray 26, 1976); and Louisiana Land and Exploration Company, 4 FEA Par. 87,003 (July 23, 1976). On the basis of these findings and the other factors present in the case, LL&E was authorized to retain crude oil produced from the Jay Field for its own use, up to a total of 32,719 barrels per day. In anlyzing its current submission, the FEA determined that LL&E was likely to sustain a severe and irreparable injury in the absence of stay relief which would permit it to retain a substantial volume of the crude oil which it produced for use in its own refinery. After weighing the adverse impact to Exxon if the request for stay were granted, the FEA concluded that LL&E had satisfied the criteria specified in the FEA Procedural Regulations for the approval of a stay. LL&E was therefore permitted to continue to utilize 32,719 barrels per day of Jay Field crude oil pending a decision on the application for an extension of exception relief which it had filed.

Santa Fuel, Inc.; Bridgeport, Conn.; FES–0936; No. 2 Fuel Oil

Santa Fuel, Inc. filed an Application for Stay of a Remedial Order which the Director of Regulatory Programs of FEA Region I issued to the firm on August 4, 1976. In the Remedial Order, the FEA directed Santa Fuel to refund to the State of Connecticut the revenue which it realized by charging prices for No. 2 fuel oil which were in excess of those permitted by 6 CFR 150.359 and 10 CFR 212.93. The approval of a stay would relieve Santa Fuel of the obligation to comply with the requirements of the Remedial Order pending a final determination of an Appeal from the Remedial Order which Santa Fuel had filed. In considering Santa Fuel's request, the FEA determined that the firm had not shown that it would incur any financial hardship if it were required to make the required refunds. The FEA also concluded that Santa Fuel had not shown that it would have any difficulty in recovering the refunds from the State of Connecticut in the event it is successful on its Appeal of the Remedial Order. Therefore, in accordance with the precedent established in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976), the firm's Application for Stay was denied.

DISMISSALS

The following submission was dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Border Aircraft, Inc.; Brownsville, Tex.; FEE–2643

The following submissions were dismissed for failure to correct deficiencies in the firm's filings as required by the FEA Procedural Regulations:

Texaco, Inc.; Houston, Tex.; FEE–2880—FEE–2892

TEMPORARY STAY

The following Application for Temporary Stay was denied on the grounds that the applicant had failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Glacier Park Co.; Washington, D.C.; FST–0013

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a

commercially published loose leaf reporter system.

MICHAEL F. BUTLER,
General Counsel.

OCTOBER 12, 1976.

[FR Doc. 76-30368 Filed 10-13-76;11:25 am]

TIME OIL CO.

Action Taken on Consent Order

Pursuant to 10 CFR 205.197(c), the Federal Energy Administration (FEA) hereby gives notice of final action taken on a Consent Order.

On August 12, 1976, FEA published notice of a Consent Order which was executed between Time Oil Company (Time) and FEA. (41 FR 34112 (August 12, 1976)). With that notice, and in accordance with 10 CFR 205.197(c), FEA invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. FEA has concluded that the Consent Order as executed between FEA and Time is an appropriate resolution of the compliance proceedings described in the Notice published on August 12, 1976, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, October 18, 1976.

Issued in Washington, D.C., October 12, 1976.

MICHAEL F. BUTLER,
General Counsel.

[FR Doc.76-30366 Filed 10-13-76;11:25 am]

FEDERAL HOME LOAN BANK BOARD

[No. AC-20]

BISCAYNE FEDERAL SAVINGS AND LOAN ASSOCIATION MIAMI, FLORIDA

Approval of Conversion (Final Action)

OCTOBER 8, 1976.

Notice is hereby given that on October 8, 1976, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 76-780, approved the application of Biscayne Federal Savings and Loan Association, Miami, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-30439 Filed 10-15-76;8:45 am]

[No. AC-19]

COUNTY FEDERAL SAVINGS AND LOAN ASSOCIATION OF WESTPORT, WESTPORT, CONNECTICUT

Approval of Conversion (Final Action)

OCTOBER 8, 1976.

Notice is hereby given that on October 8, 1976, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation by Resolution No. 76-779, approved the application of County Federal Savings and Loan Association of Westport, Westport, Connecticut, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Boston, P.O. Box 2196, Boston, Massachusetts 02106.

By the Federal Home Loan Bank Board.

[SEAL] RONALD A. SNIDER,
Assistant Secretary.

[FR Doc.76-30440 Filed 10-15-76;8:45 am]

FEDERAL RESERVE SYSTEM

BOYDEN BANCORP

Formation of Bank Holding Company

Boyden Bancorp, Boyden, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 81 percent or more of the voting shares of Farmers Savings Bank, Boyden, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 12, 1976.

Board of Governors of the Federal Reserve System, October 12, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-30337 Filed 10-15-76;8:45 am]

SPALDING CITY CORP.

Order Approving Formation of a Bank Holding Company

The Spalding City Corporation, Spalding, Nebraska ("Applicant"), pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 225.3(a) of Regulation Y (12 CFR 225.3(a)), has applied for prior approval to become a bank holding company through the acquisition of 80 percent or more of the voting shares of Spalding City Bank, Spalding, Nebraska ("Bank").

Notice of the application, affording an opportunity for interested persons to submit comments and views, has been given in accordance with section 3 of the Act (41 FR 34363). The time for filing comments and views has expired and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

Upon acquisition of Bank (deposits of $2.9 million), Applicant would control the 294th largest bank in Nebraska, holding .05 percent of total deposits in commercial banks in the State.[1] Bank is the third largest of the four banks located in Greeley County, which approximates the relevant banking market, and controls 22.03 percent of deposits therein. Acquisition of Bank would result in no immediate change in banking services available in the relevant market.

Applicant's two principal shareholders have ownership interests in two Iowa one-bank holding companies. The subsidiary banks of these holding companies are located considerable distances from Bank and operate in different banking markets. Inasmuch as the proposal to form a bank holding company represents a restructuring of the existing ownership of Bank into corporate form, consummation of the proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on other banks in the trade area.

The financial and managerial resources and future prospects of Applicant, which are dependent on those of Bank, are considered satisfactory and consistent with approval. The debt to be incurred by Applicant appears to be serviceable from the income derived from Bank without having an adverse effect on the financial condition of either Applicant or Bank. Accordingly, considerations relating to banking factors are consistent with approval of the application.

Although consummation of the proposal would cause no additional changes in the banking services offered by Bank, a number of improvements have been observed since Applicant's principals acquired control, including the offering of maximum interest rates on time and savings accounts and reduced service charges on demand deposit accounts. Considerations relating to the convenience and needs of the community to be served lend weight toward approval. It has been determined that consummation of the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons sum-

[1] Unless otherwise indicated, all banking data are as of December 31, 1975.

marized above. The transaction involving acquisition of shares of Bank shall not be consummated before the thirtieth calendar day following the effective date of this order and Bank should not be acquired later than three months after the effective date of this order, unless such period is extended for good cause by the Board of Governors or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective October 12, 1976.

GRIFFITH L. GARWOOD,
Assistant Secretary of the Board.

[FR Doc.76-30338 Filed 10-15-76;8:45 am]

FEDERAL TRADE COMMISSION

PUBLIC INVESTIGATION OF COMPLIANCE BY FRANCHISORS WITH LAWS ADMINISTERED BY THE COMMISSION

Placement of Special Reports on the Public Record

On October 2, 1973, the Commission issued its final order and opinion in Docket 8884—Chock Full O'Nuts Corporation, Inc. (38 FR 29317), holding that a franchisor of sit-down counter service restaurants which required its franchisees to purchase products manufactured by the franchisor, or by any other designated source, was engaged in per se violations of the Federal Trade Commission Act, absent affirmative proof by the franchisor that such purchase restrictions are "necessary to ensure the quality of its products, or that no less restrictive means than the tie-in may be used to ensure such quality." With respect to some products, the franchisor convinced the Commission that such purchase restrictions were so necessary; with respect to other products, the franchisor failed to adduce convincing proof that its purchase restrictions were necessary.

Subsequent to the aforementioned decision, the Commission's Bureau of Competition continued to receive numerous complaints of alleged tie-ins, exclusive dealing arrangements and coercive practices by franchisors, primarily in the fast food market.

Therefore, on January 15, 1975, the Federal Trade Commission approved, adopted, and entered of record a resolution requiring certain franchisors of drive-in, carry out, or restaurant-type retail food establishments, to file Special Reports in order for the Commission to determine whether the franchisors have brought their franchise operations into compliance with the Commission's decision in the Chock Full O'Nuts case.

On October 15, 1976, after deleting from the Special Reports trade secrets, financial information, and certain other information, the Federal Trade Commission placed on the public record the Special Reports filed in response to this resolution. These Special Reports are available for viewing at the Federal Trade Commission headquarters building in Washington, D.C., and at the Chicago, Los Angeles, and New York Regional Offices of the Federal Trade Commission.

Interested franchisees are invited to examine these Special Reports and to submit information as to the purchasing requirements of these franchisors. Franchisees should send their submissions to the Secretary, Federal Trade Commission, Washington, D.C. 20580. (Attention: Food Franchising Investigation), on or before December 15, 1976. The Federal Trade Commission will place the franchisee submissions on the public record at Federal Trade Commission headquarters in Washington, D.C., following deletion of franchisee names, addresses, and other identifying information. The Special Reports and the franchisee submissions will then be evaluated to determine whether the franchisors are complying with statutory requirements.

Issued: October 15, 1976.

By direction of the Commission.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-30340 Filed 10-15-76;8:45 am]

NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

SUPPLIERS COMMITTEE

Meetings

The Suppliers Committee of the National Commission on Electronic Fund Transfers will hold closed meetings on Thursday, October 21 and Friday, October 22, 1976, at the Hospitality House Motor Inn in Williamsburg, Virginia from 8:30 a.m. to 5:00 p.m. for the purpose of examining and discussing proprietary information received by the Commission.

It has been determined in writing by the Director of the Office of Management and Budget, James T. Lynn, that these meetings may be closed under Section 10(d) of the Federal Advisory Committee Act and under exemption 4 of the Freedom of Information Act, 5 U.S.C. 552 (b) (4).

For further information contact Janet Miller, Public Affairs Officer, at (202) 254-7400.

Dated: October 14, 1976.

JAMES O. HOWARD, Jr.,
General Counsel.

[FR Doc.76-30678 Filed 10-15-76;9:22 am]

THE NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES

THE ADVISORY COMMITTEE ON NATIONAL GROWTH POLICY PROCESSES

Meeting

Notice is hereby given, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 10(a), that the Advisory Committee on National Growth Policy Processes to the National Commission on Supplies and Shortages will conduct a public meeting on November 5, 1976, in Room 2010 of the New Executive Office Building located at 17th & H Streets, N.W., Washington, D.C. The meeting will begin at 9:30 A.M. (This November 5, 1976 meeting date is in lieu of an October 29, 1976 meeting announced earlier in the FEDERAL REGISTER dated March 8, 1976. There will be no meeting of the Committee on October 29, 1976).

The objectives and scope of activities of the Advisory Committee on National Growth Policy Processes is "* * * to develop recommendations as to the establishment of a policy-making process and structure within the Executive and Legislative branches of the Federal Government as a means to integrate the study of supplies and shortages of resources and commodities into the total problem of balanced national growth and development, and a system for coordinating these efforts with appropriate multi-state, regional and state governmental jurisdictions."

The major focus of the November 5 Advisory Committee meeting will be to review a first draft of the Committee's final report. However, before conducting that review, the Committee will first attempt to resolve its views and recommendations relating to several issues and matters that are still pending before it; namely, those relating to public participation in the Federal policy-making process; the Congress; and certain food and agricultural policy issues.

The summarized agenda for the meeting is as follows:

1. Reports by the Chairman and Executive Director.
2. Review draft section and recommendations related to increased public participation in the Federal policy-making processes.
3. Review draft section and recommendations related to food and agricultural information and stockpiling issues.
4. Review revised draft section and recommendations related to improvements in Congressional policy-making process and structure.
5. Overall review of the first draft of the Committee's final report and recommendations.

In the event the Committee does not complete its consideration of the items on the agenda on November 5, 1976, the meeting may be continued on the following day or until the agenda is completed.

The meeting is open to the public. The Chairman of the Committee will conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public that wishes to file a written statement with the Committee should mail a copy of the statement to the Advisory Committee on National Growth Policy Processes, 1750 K Street, NW., 8th Floor, Washington, D.C. 20006, at least five days before the meeting. Members of the public that wish to make oral statements should inform Katherine Soaper, telephone (202) 254-6836, at least five days before the meeting, and reasonable provisions will be made for their appearance on the agenda.

The Advisory Committee is maintaining a list of persons interested in the operations of the Committee and will mail notice of its meetings to those persons. Interested persons may have their names placed on this list by writing James E. Thornton, Executive Director, The Advisory Committee on National Growth Policy Processes, 1750 K Street, N.W., 8th Floor, Washington, D.C. 20006.

Dated: OCTOBER 12, 1976.

ARNOLD A. SALTZMAN,
Chairman, The Advisory Committee on National Growth Policy Processes.

[FR Doc.76-30334 Filed 10-15-76;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76-90)]

APPLICATIONS STEERING COMMITTEE, OCEAN DYNAMICS ADVISORY SUBCOMMITTEE

Meeting

The Applications Steering Committee, Ocean Dynamics Advisory Subcommittee will meet on November 4 and 5, 1976, at the National Oceanic and Atmospheric Administration, Room 3309, Federal Office Building Four (FOB 4) Suitland, Maryland, southwest of the intersection of Suitland Road and Highway 458. Members of the public will be admitted to the meeting beginning at 9:00 a.m. on a first-come, first-served basis, up to the seating capacity of the room.

The Applications Steering Committee, Ocean Dynamics Advisory Subcommittee will assist NASA in the definition and conduct of the Seasat program and other Ocean Dynamics related activities associated with the Earth and Ocean Dynamics Applications Program (EODAP), within the Office of Applications. This Subcommittee will advise and make recommendations on the conceptual design; development and operational readiness phase of ocean dynamics programs, and will review on-going supporting research and technology tasks on an annual basis. Mr. Samuel W. McCandless can be contacted for further information at (202) 755-1201.

The following is the agenda and schedule for the November 4 and 5, 1976 meeting:

NOVEMBER 4, 1976

9 a.m.	Chairman's resolution on empaneling the Oceanology Advisory Group.
10 a.m.	Report and discussion on the Economic Verification Test opportunities for Seasat-A.
10:30 a.m.	Coordinated solicitation of scientific experiments for Seasat-A.
11 a.m.	Commercial users initiatives and applications panel organization.
1:30 p.m.	NOAA Seasat program development plan status report.
2 p.m.	Seasat project status report; algorithm development, data distribution, science experiment plans, surface truth planning.
2:45 p.m.	Seasat advance planning group report on user need report, Sensor Catalog, Spacecraft Handbook, etc.
3:30 p.m.	Coordination meetings of science advisory group and the applications panel.
5 p.m.	Adjourn.

NOVEMBER 5, 1976

9 a.m.	Marineland preliminary test results and analyses effort status.
10 a.m.	EODAP ocean supporting research and technology tasks for fiscal year 1977.
10:45 a.m.	EODAP ocean plan status report.
11 a.m.	Working meetings, science, advisory group and applications panel.
12:30 p.m.	Adjourn.

Dated: October 12, 1976.

JOHN M. COULTER,
Acting Assistant Administrator for DOD and Interagency Affairs.

[FR Doc.76-30328 Filed 10-15-76;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

NATIONAL COUNCIL ON THE HUMANITIES ADVISORY COMMITTEE

Meeting

OCTOBER 13, 1976.

Pursuant to the Provisions of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given that a meeting of the National Council on the Humanities will be conducted at Washington, D.C., on November 4 and 5, 1976.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Shoreham Building, 806 15th Street, NW., 1st Floor Conference Room, Washington, D.C. The session of the proposed meeting on November 4, 1976, and the afternoon session on November 5, 1976, will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy. Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemping to protect the free exchange of intions (3), (4) and (6) of 5 U.S.C. 552(b) and that it is essential to close the meetinternal views and to avoid interference with operation of the committee.

The morning session on November 5, 1976, will convene at 9:00 a.m. and will be open to the public. The agenda for the morning session will be as follows:

MINUTES OF THE PREVIOUS MEETING

REPORTS

A. Summary of Recent Business and Introduction of New Staff Members.
B. Chairman's Grants.
C. Application Report.
D. Summary of Awards for Fiscal Year 1976.
E. Gifts and Matching Report.
F. Reauthorization.
G. Presentations at Council Meetings.

The remainder of the proposed meeting will be closed to the public.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.76-30438 Filed 10-15-76;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON TRANSPORTATION ON RADIOACTIVE MATERIALS

Meeting

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Transportation of Radioactive Materials will hold a meeting on November 4, 1976 at the Seven Continents Restaurant, Rotunda Building, O'Hare International Airport, Chicago, IL. The purpose of this meeting is to review public comments to NUREG-0034, "Draft Environmental Statement on the Transportation of Radioactive Material by Air and Other Modes."

The agenda for the subject meeting shall be as follows:

Thursday, November 4, 1976, 8:30 a.m., the Working Group will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of reports regarding matters which should be considered during the open session in order to formulate a Working Group report and recommendations to the full Committee.

10:00 a.m. until conclusion of business, the Working Group will meet in open session to hear presentations and hold discussions with representatives of the NRC Staff.

At the conclusion of the open session, the Working Group may caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Working Group members and consultants will discuss their opinions and recommendations on these matters.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Working Group's deliberative process (5 U.S.C. 552(b)(5)). Separation of factual material from indi-

vidual's advice, opinions and recommendations while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by providing 15 readily reproducible copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Working Group's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 28, 1976, to Mr. G. R. Quittschreiber, ACRS, NRC, Washington, DC 20555 will normally be received in time to be considered at this meeting.

(b) Those persons wishing to make an oral statement at the meeting should make a written request to do so, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman of the Working Group.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on November 3, 1976 to the Office of the Executive Director of the Committee (telephone 202/634-1374, Attn: Mr. G. R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., est.

(d) Questions may be propounded only by members of the Working Group and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) A copy of the transcript of the open portion of the meeting will be available for inspection on or after November 11, 1976 at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room 1717 H St., NW., Washington, DC 20555 after February 4, 1977. Copies may be obtained upon payment of appropriate charges.

Dated: October 13, 1976.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.76-30535 Filed 10-15-76;8:45 am]

[Docket No. 50-437]

ACCIDENTAL RELEASE OF RADIOACTIVE MATERIAL TO AQUEOUS ENVIRONMENT

Availability of NRC Draft Environmental Statement (Part III)

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in Appendix M of 10 CFR Part 50 and 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement considering the comparative risks and consequences between floating nuclear plants and land-based nuclear plants associated with the accidental release of radioactive material to the aqueous environment has been prepared by the Commission's Office of Nuclear Reactor Regulation. It also presents an overall summary and conclusion reflecting, on a cumulative basis, the elements of review in Parts I, II, and III. This statement (NUREG 0127) is Part III of the environmental review related to the issuance of manufacturing license to Offshore Power Systems and is a supplement to the Final Environmental Statement Part II (NUREG-0056) issued in September 1976. Part II discusses the generic considerations of siting and operating floating nuclear power plants in the coastal waters of the Atlantic Ocean and the Gulf of Mexico and in certain riverine and estuarine locations. Notice of the availability of Part II was published in the FEDERAL REGISTER on September 30, 1976 (31 FR 43257).

Accompanying the Draft Environmental Statement Part III (NUREG-0127) is the Draft Liquid Pathway Generic Study (NUREG-0140) published September 1976. This Study contains, in detail, the bases for the conclusions reached in the Part II Draft Statement and should be referred to for further review and comment. NUREG-0127 and NUREG-0140 are both available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida 32204; the Stockton State College Library, Pomona, New Jersey 08240; and the New Orleans Public Library, Business and Science Division, 219 Loyola Avenue, New Orleans, Louisiana 70141. Both reports are also being made available at the Bureau of Intergovernmental Relations, Division of State Planning, Department of Administration, 660 Apalachee Parkway, Tallahassee, Florida 32304 and at the Jacksonville Area Planning Board, 330 East Bay Street, Jacksonville, Florida 32202. A copy of the Commission's Draft Environmental Statement (Part III) and its attachment (NUREG-0140) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Offshore Power System's Environmental Report, as supplemented, and the Commission's Final Environmental Statements Part I and II (NUREG-75/091 and NUREG-0056), published October 1975 and September 1976 respectively, which pertained to the NEPA considerations associated with the manufacture of floating nuclear plants in Jacksonville, Florida, and the generic considerations of siting and operating floating nuclear plants, are also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on October 7, 1975 (40 FR 46364). Copies of the Final Environmental Statements can be purchased at the National Technical Information Service, Springfield, Virginia 22161: Part I $6.25; Part II, Vol. 1, $16.25, Vol. 2 $10.00 ; microfiche $2.25 each.

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Draft Environmental Statement Part III and its accompanying Generic Study for the Commission's consideration. Federal, State and specified local agencies are being provided with copies of the Draft Statement. Other interested persons or local agencies may obtain a copy of the two documents upon request. Comments are due by December 2, 1976. Comments by Federal, State, and local officials or other interested members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C.; the Jacksonville Public Library, 122 North Ocean Street, Jacksonville, Florida; the Stockton State College Library, Pomona, New Jersey; and the New Orleans Public Library, 210 Loyola Avenue, New Orleans, Louisiana. Upon consideration of comments submitted with respect to this Draft Environmental Statement Part III, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER. Comments on the Draft Environmental Statement from interested members of the public should be addressed to the U.S. Nuclear Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated this 8th day of October 1976.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch No. 1, Division of Site Safety and Environmental Analysis.

[FR Doc.76-30534 Filed 10-15-76;8:45 am]

[Docket No. 50-247 OL No. DPR-26]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Extension of Interim Operation Period Order Convening Prehearing Conference

In the matter of Consolidated Edison Co. of New York, Inc. (Indian Point Station, Unit No. 2).

Consolidated Edison Company of New York, Inc. (Licensee) on October 4, 1976 filed a motion for a prehearing conference in reference to its application for an extension of the period of once-through cooling interim operation for Indian Point Station, Unit No. 2. The Regulatory Staff of the Commission issued its Draft Environmental Statement in mid-July 1976 and the Final Environmental Statement is projected to be issued in late November or early December.

The parties to this proceeding have indicated that either October 27th or 28th, 1976 would be a convenient date for a prehearing conference.

Wherefore, It Is Ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Nuclear Regulatory Commission, particularly 10 CFR Section 2.752 thereof, that a prehearing conference shall convene at 10:15 a.m. (EDT), Oct. 27, 1976 in the Hearing Room, First Floor, The Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland. The prehearing conference shall consider those matters contemplated to be included within the scope of 10 CFR 2.752.

Issued: October 7, 1976.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
Chairman.

[FR Doc.76-30241 Filed 10-15-76;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR THE MATERIALS RESEARCH LABORATORIES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for the Materials Research Laboratories.

Date and time: November 4 and 5, 1976—9:00 a.m. to 5:00 p.m. each day.

Place: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. R. J. Wasilewski, Head, Materials Research Laboratory Section, Room 408, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7408.

Purpose of panel: To provide advice and recommendations concerning support for research in Materials Research Laboratories.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b), Freedom of Information Act. The rendering of advice by the panel is considered to be a part of the Foundation's deliverative process and is thus subject to exemption (5) of the Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make determinations by the Director, NSF, on February 11, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

OCTOBER 13, 1976.

[FR Doc.76-30427 Filed 10-15-76;8:45 am]

NATIONAL SCIENCE BOARD

Regional Forums

The National Science Board is planning a series of regional forums in response to language in the NSF Authorization Act for Fiscal Year 1976 which directed the Foundation

> • • • To prepare a comprehensive plan to facilitate the participation of members of the public in the formulation, development, and conduct of the National Science Foundation's programs, policies, and priorities.

The primary objective of the forums is to encourage the expression of views by the general public on scientific and science education issues. Several Members of the National Science Board will participate in each forum; participation is invited from business, state and local government, educational institutions, public interest and citizen groups, and the community at large. Ideas exchanged at the forum will help the Board expand its information base and assist in its policy-making role for the National Science Foundation.

The NSF will hold the second of its regional forums in Seattle on November 8, 1976. The three issue areas identified for discussion by a regionally based planning group were regional growth, natural resources, and human resources. Questions of regional interest to the northwest that are related to these issues include:

1. *Regional Growth:* The complex relationships between regional growth and quality of life are of particular concern to citizens of the northwest. The facts needed for rational choices are of great interest and concern.

2. *Natural Resources:* The present abundance of clean air and water, together with the abundance of mountains, forests, crops and energy supply both invite growth and prompt strong feelings that quality of life must not be sacrificed. What can be learned about resource use and environmental preservation that will aid in reconciling conflicting interests?

3. *Human Resources:* Choices of growth alternatives and resource use have critically important implications for the people of the region. Issues are standards of living, health care, quality housing, levels of education, job opportunities. What assurances are there of access to these, quality of opportunity, costs?

The second NSB Regional Forum will take place at the Pacific Science Center, Seattle, Washington, and will begin at 9:00 a.m. on November 8, 1976. Further information may be obtained from the Community Affairs Branch, Room 527, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

Interested citizens who cannot attend the Forum are invited to send written comments on science policy issues to the above NSF address by December 1, 1976.

M. REBECCA WINKLER,
Acting Committee Management Officer.

OCTOBER 13, 1976.

[FR Doc.76-30426 Filed 10-15-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on Oct. 8, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

SMALL BUSINESS ADMINISTRATION

SBI Client Questionnaire, single-time, recipients of SBI assistance, Robert W. Raynsford, 395-3814.

U.S. INTERNATIONAL TRADE COMMISSION

Producers' Questionnaire (Portland Hydraulic Cement), single-time, producers, Laverne V. Collins, 395-5867.

DEPARTMENT OF LABOR

Employment Standards Administration, Complaint of Violation of Affirmative Action Obligations by Federal Contractors, CC-3, on occasion, handicapped individuals and military veterans, Arnold Strasser, 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Request for Employment Information in Connection with Claim for Disability Benefits, 21-4192, on occasion, employer, David P. Caywood, 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition service:
- Requisition for Food Coupon Books, FNS-260, on occasion, food stamp project areas, Warren Topelius, 395-5872.
- Application to Participate in the Food Stamp Program, FNS-252,252, 1 through 4, on occasion, food retailers and wholesalers, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control, National Disease Surveillance—I. Case Reports, on occasion, State and territorial health departments, Richard Eisinger, 395-6140.

Office of Human Development, Intake and Service Summary Form, other (see SF 83), Barbara F. Reese, 395-3211.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Supplement to Application for One-to-Four Family Homes Insured Improvement Loan Under Sections 203K and 220H, Form 2004C-1, on occasion, FHA-approved mortgagee, Community Veterans Affairs Division, 395-3532.

Community Planning and Development Discretionary Grant Preapplication-Instructions, annually, units of general local government under 50,000 population, Community Veterans Affairs Division, 395-3532.

EXTENSIONS

ACTION

Senior Companion Study, Interview Guides, single-time, project staff, sponsors, volunteer stations, and senior companions, Barbara F. Reese, 395-3211.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service, Qualifications of Warehouse Supervisory Personnel Reference Letter, TW-54, 99, and 100, on occasion, public, commercial warehousemen, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Bureau of the Census, Travel to Work Survey, other (see SF 83), households in 20 selected SMSA's, Arnold Strasser, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service, Notification of Action Under Section 1122 of the Social Security Act, on occasion, one designated agency in each participating State, Warern Topelius, 395-5872.

Food and Drug Administration, Questionnaire of X-Ray Machine Operators Module, FD-06, single-time, non-practitioners of ionizing radiation in medicine, Warren Topelius, 395-5872.

Office of Human Development, Services Project Grant, RSA-41, semiannually, public and private rehabilitation facilities, Robert W. Raynsford, 395-3814.

Department of Housing and Urban Development, Housing Management:
- Survey of Current Wage Rates, FHA 2320, on occasion, contractors and subcontractors/construction, Community Veterans Affairs Division, Milo B. Sunderhauf, 395-3532.
- Cooperative Membership Exhibit Section 213, FHA 3203, on occasion, cooperative organizations, Community and Veterans Affairs Division, 395-3532.
- Lender's Application for Commitment on One-to-Four Family Insured Home Improvement Loan, FHA-2004-1, on occasion, FHA approved mortgagees, Community and Veterans Affairs Division, 395-3532.
- Application for Tenant Eligibility for Rent Supplement, FHA 2501, on occasion, assisted by housing owner or managing agent, Community Veterans Affairs Division, 395-3532.
- Notice of Job Changes in Adult Family Income, FHA-3115, on occasion, households in all regions, Community Veterans Affairs Division, 395-3532.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Tin, 6-1132-M, monthly, consumers of tin, Cynthia Wiggings, 395-5631.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, Log of Occupational Injuries and Illnesses, Summary of Occupational Injuries and Illnesses Supplemental Record of Occupational Injuries and Illnesses, OSHA-100, 101, and 102, other (see SF 83), all employers in private industries, Charles A. Ellett, 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76-30531 Filed 10-15-76;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on October 12, 1976 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Mushroom Canners' Questionnaire, single-time, Mushroom Canners, Laverne V. Collins, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education, Classroom Perception Inventory, NIE-166, single-time, elementary and junior high school students, Kathy Wallman, 395-6140.

Policy Development and Research Home Builders Profile Survey, single-time 150 Homebuilders in 5 SMSA's, housing, veterans and labor division, Sunderhauf, M. B., 395-3532.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research, Affirmative Marketing Plan Survey, single-time, Housing groups, Housing, Veterans and Labor division, C. Louis Kincannon, 395-3532.

Housing Management, Nonprofit Hospital—Section 242—Application for Project Mortgage Insurance, FHA-2013, on occasion, project sponsors, housing, veterans and labor division, 395-3532.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, 1977 Retirement History Study Institutional Administration Questionnaire Part A; Interview Schedule, Part B, SSA-9508, single-time, persons aged 66-71 in 1977, Sunderhauf, M. B., 395-6140.

Office of Education:
- Financial Status—and Performance Reports for Discretionary Grants: Vocational and Educational Professions Development Programs, OE 360, quarterly, SEA, LEA, IHE, non-profit and profit-making organizations, 395-3443.
- Institutional Application for Public Service Programs, OE 404, annually, institutions of post secondary education, Caywood, D. P., 395-3443.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Sand and Gravel, 6-1274-A, annually, Commercial and Government Producers of sand and gravel, Cynthia Wiggins, 395-5631.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:
- Manufacturers Dry Milk Report, SRSCE-9252, monthly, milk manufacturer's and cooperatives, Warren Topelius, 395-5872.
- Monthly Evaporated and Condensed Milk Report, SRSCE9251, monthly, evaporated and condensed milk manufacturers, Warren Topelius, 395-5872.
- Annual Mink Survey, annually, mink producers, Warren Topelius, 395-5872.

DEPARTMENT OF COMMERCE

Economic Development Administration, Certificate as to Project Site, Right of Way and Easements, ED-152, on occasion, engineers/attorneys, Warren Topelius, 395-5872.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application for Federal Assistance (Nonconstruction Programs) Instruction Programs Instructions for Educational Opportunity Centers, OE 343, annually, educational community and agencies or organizations, Caywood, D. P., 395-3443.

National Institutes of Health, Application for General Research Support or Biomedical Sciences Support Grant (combined form), NIH-147-1, annually, universities, hospitals, and health research institutes, Lowry, R. L., 395-3772.

Health Resources Administration, 1977-78 National Ambulatory Medical Care Survey (revised patient record), HRA 34-1 through 5, annually, physician's primarily engaged in patient care, Richard Eisinger, 395-6140.

Social Security Administration, Request for Information by Public Assistance Agency, SSA-1610, on occasion, State welfare agencies, Caywood, D. P., 395-3443.

Office of Education, Financial Status and Performance Reports, Title I, ESEA of 1965, OE 380-1, OE 380-2, annually, SEA's, Caywood, D.P., 395-3443.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Management, Modernization Program Budget, HUD–52990, on occasion, public housing agencies, Housing, Veterans, and Labor Division, 395–3532.

DEPARTMENT OF THE INTERIOR

Bureau of Mines:

Portland and Masonry Cement (Disposition), LY, 6–1215–M, monthly, producers of portland and masonry cement, Cynthia Wiggins, 395–5631.

Bromine (Disposition and Purchases), 6–1233A, annually, producers of bromine, Cynthia Wiggins, 395–5631.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.76–30532 Filed 10–15–76;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

MEETING

Change of Location

In a notice that appeared in the FEDERAL REGISTER on October 1, 1976 at page 43477, the Privacy Protection Study Commission announced that it would hold a meeting in closed session on October 20, 21, and 22, 1976 at 26 Federal Plaza, New York, New York 10007.

That notice is hereby amended to indicate that the meeting will be held at the dates and times scheduled at Suite 424, 2120 L Street NW., Washington, D.C. instead of the previously announced New York location.

No final actions by the Commission will be taken at this meeting.

CAROLE W. PARSONS,
Executive Director, Privacy Protection Study Commission.

OCTOBER 13, 1976.

[FR Doc.76–30339 Filed 10–15–76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–12881; File No. SR–MSE–76–21]

MIDWEST STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 1, 1976, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would amend that section of the By-Laws designated as the Rules of the Midwest Stock Exchange, Incorporated by adopting new rules divided into Articles numbered Article XL to L, applicable to Options trading on the Exchange and amending existing rules, as described below, to adopt the rules to options trading or to distinguish equity trading rules from options trading rules. Existing rules would also be renumbered in order to re-organize the Rules into (a) Rules of general applicability and (b) rules applicable to equity trading. The following chart reflects the changes proposed.

Article No.		Rule numbers—			
Old	New [1]	Amended [2]	Added [3]	Transferred [4]	Renumbered [5]
I	I	1, 2, 5, 6, 7, 10, 12, 13, 14			
II	(6)				
III	IV	3, 4	5, 6		5, 6, 7, 8
IV	XX				
V	XXI		17, 18, 19, 20		
VI	XXII				
VII	XXIII				
VIII	XXIV				
IX	XXV				
X	XXVI				
XI	XXVII				
XII	V	1, 2, 3, 4, 5			
XIII	VII				
XIV	II	0, 17			
XV	III	7, 10, 12, 13			
XVI	VI	2, 3, 5, 7, 9			
XVII	VIII	5, 6, 17, 21		14(c)	
XVIII	IX	4, 5, 6, 13		2, 8, 11, 16	3, 4, 5, 6, 7, 9, 10, 12, 13, 14, 15
XIX	X				
XX	XI	1, 2, 3, 4, 5, 9, 10, 11		6, 8	7, 9, 10, 11, 12
XXI	XII	1, 2, 3			
XXII	XXVIII				
XXIII	XXIX				
XXIV	XXX		22		
XXV	XXXI				
XXVI	XIII				
XXVII	XIV	3, 4, 7, 13			
XXVIII	XV				
XXIX	XXXII				
XXX	XXXIII				
XXXI	XVI				

[1] Articles XVII, XVIII, XIX, XXXIV, XXXV, XXXVI, XXXVII, XXVIII, and XXXIX have been intentionally left blank.
[2] References are to old rule numbers.
[3] References are to new rule numbers.
[4] References are to old rule numbers transferred to different articles.
[5] Refers to rules that are renumbered within the same article. In each case where a rule is moved to a new article, it is shown as a deletion in the old article and an addition in the article to which moved.
[6] This article was not previously used.

NOTE.—Upon adoption, the by-laws of the exchange would be divided as follows: Part I (arts. I through XII) The Constitution. Parts II, III, and IV (arts. I through LI) The Rules. The Constitution would have general applicability. The rules would be applicable as follows: Part II (arts. I through XIX) General Applicability. Part III (arts. XX through XXXIX) Equity Trading Rules. Part IV (arts. XL through L) Option Trading Rules.

These proposed rule changes are part of a plan developed by the Midwest Stock Exchange for the trading of call options in selected stocks which have qualified to be registered and listed on national securities exchanges. The options to be traded on the Midwest Stock Exchange will have standardized expiration dates and exercise prices. The Options Clearing Corporation, Inc. ("OCC") which is jointly owned by exchanges with options programs will be the issuer and primary obligor of the Midwest Stock Exchange options, and Midwest options will be exercised through the OCC. Each Midwest member firm must obtain the Exchange's approval for the firm's method of allocating exercise notices among customer accounts.

The Midwest Stock Exchange intends to commence its pilot program with options in twenty underlying stocks of issuers which meet the listing standards in its proposed rule. The proposed standards are like those of exchanges presently trading options. Options in additional underlying stocks will be added from time to time, with Commission approval, depending upon operating performance and capacity and the degree of interest shown in the program.

The Midwest Stock Exchange will consider initiation of dual trading (i.e., trading on more than one national securities exchange of options, with the same terms, on the same underlying stock) as part of its initial options program.

Like the exchanges on which options are presently traded, the Midwest Stock Exchange intends to utilize expiration months set at three month intervals. (January, April, July, October, etc.) with trading in an option commencing no earlier than approximately nine months prior to its expiration. A Midwest option will expire at 4:00 p.m. Central Time, on the Saturday immediately following the third Friday of the expiration month, and the last time for trading these options will be 2 p.m. Central Time on the business day immediately prior to the expiration date. The Midwest Stock Exchange will restrict trading in its options when it deems such action advisable in the public interest or for the protection of investors or in the interest of a fair, orderly, and competitive market. In addition, the Midwest Stock Exchange would establish prohibitions on certain opening transactions where the exercise price of the

option was more than $5.00 above the closing price of the underlying stock on the previous day was below $.50. (This rule is for call options.)

Midwest's options would generally be adjusted for stock splits, stock dividends and other stock distributions in the same way as it is presently done on the other national exchanges which trade options. Unlike options traded in the over-the-counter markets, no adjustment is made to any of the terms of the Midwest Stock Exchange traded options to reflect the declaration or payment of ordinary cash dividends.

The proposed rule changes give the Midwest Stock Exchange the power to establish limitations governing the maximum number of such options, having the same expiration date, which may be held or written by a single investor or group of investors acting in concert. The Exchange may also restrict the exercise of options, for example, as to the number of options covering the same underlying security which may be exercised by a holder or group of holders acting in concert within a certain period.

In general, options will be traded on the Midwest Stock Exchange in a manner similar to options trading on the Pacific Stock Exchange ("PSE"), i.e., through use of a competing market maker system. Trading on the options trading floor will be conducted by and among three specific groups of individuals: Market makers, floor brokers, and order book officials.

A market maker is a person who will be registered with the Midwest Stock Exchange for the purpose of making transactions as a dealer/specialist on the floor of the Exchange. At the time an option on a particular underlying stock is approved for listing and trading, it will be allocated to two or more market makers who will have primary responsibility for maintaining a competitive and liquid market in that option as described in the rules of the Exchange. Each market maker will be expected to engage, to a reasonable degree under existing circumstances, in dealings for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationship between options contracts of the same class.

Midwest's order book official ("OBO") like Pacific's OBO will be an exchange employee. This differs from the Chicago Board Options Exchange ("CBOE") in that the individual comparable to the OBO, the Board Broker, at the CBOE, is an independent member. The Exchange will establish an error fund to compensate members for the OBO's mistakes, and whenever the error fund equals $200,000 the Exchange's liability for the aggregate of errors committee on a given day will be limited to the fund.

Before a customer may purchase or write a Midwest Stock Exchange option, his account must be approved for options trading. In connection with this approval, a member will be required to use due diligence to learn the essential facts relative to the customer, his financial situation, and investment objectives and to deliver to the customer a current Prospectus of the OCC covering Midwest Stock Exchange options. A member must also obtain from the customer a written statement concerning the awareness of and agreement to be bound by the Rules of the Midwest Stock Exchange and the Clearing Corporation and an agreement not to violate the position limits or exercise limits established by the Exchange. Customer accounts and all orders in such accounts, to the extent such accounts and orders relate to the Midwest Stock Exchange options, must be supervised by a Registered Options Principal.

No member (including member organizations and their registered employees) may recommend to a customer the purchase or sale of a Midwest Stock Exchange option unless that member has reasonable grounds to believe, on the basis of information furnished by the customer about his investment objectives, financial situation and needs, and any other information known by the member, that the entire recommended transaction is not unsuitable for the customer. The Exchange has additional requirements regarding recommendations of uncovered writing transactions to customers as well as acceptance and approval of accounts over which a member or a partner, officer or employee in a member organization exercise discretionary power.

Midwest Stock Exchange options transactions will be carried on the Options Price Reporting Authority system and will be monitored so as to permit the prompt discovery and assessment of any unusual trading patterns which may develop during a trading session. The Order Book Official will be assigned the responsibility of conducting routine surveillance. Inquiries will be undertaken if unusual activity, for no apparent reason, is observed, or unusual activity develops before important announcements, or if unusual concentrations of buying or selling are found. In addition, market makers, order book officials and floor brokers will promptly bring to the attention of the appropriate Exchange officer any unusual market activity or other circumstances indicating that an inquiry is warranted.

Midwest Stock Exchange proposes to follow the practice of other options trading exchanges in that there will be situations in which the bids or offers on the book (of the OBO in the case of Midwest) which are better than or equal to the bids or offers of others will not be given priority in executions. For example, the OBO may give market orders entitled to participants in the opening, priority over limit orders on his book at the same price. Members are also entitled to certain priorities on split price transactions and on spread transactions.

Midwest options will normally be traded from 9:00 a.m. to 3:00 p.m. Central Time.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to adopt rules for the trading of options.

The proposed rule change gives the Exchange the capacity to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act, the rules and regulations thereunder.

The membership of the Midwest Stock Exchange, Incorporated ratified the constitutional changes necessary for options trading. It has been the Exchange's finding that the vast majority of the membership desires management to adopt the rules necessary to initiate options trading so long as those rules would be in compliance with the Act. Otherwise, no comments have been received.

The Midwest Stock Exchange, Incorporated believes that no burden has been placed on competition.

The above-mentioned self-regulatory organization has consented to indefinite extension of the time period within which the Commission must:

(A) By order approve such proposed rule change; or

(B) Institute proceeding to determine whether the proposed rule change should be disapproved.

In any event, the above-mentioned Commission action will not occur within 35 days of this publication.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 17, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 12, 1976.

[FR Doc.76-30304 Filed 10-15-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[SBLC No. 0006]

ALLIED LENDING CORP.

Application To Become Eligible as a Small Business Lending Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to section 120.4(b) of the Regulations governing small business lending companies (SBLC's) 13 CFR, 120.4(b) (1975) under the name of Allied Lending Corporation, 1625 Eye Street NW., Washington, D.C. 20006, to become eligible to operate as an SBLC under the provisions of the Small Business Act (the Act) as amended (15 U.S.C. 634 and 636). Allied Lending Company will be a wholly owned subsidiary of Allied Capital Corporation. Allied Capital Corporation is presently a small business investment company which proposes to reorganize into a financial holding company with subsidiaries Allied Investment Corporation (SBIC) and Allied Advisory Inc. (consulting). Allied Capital Corporation as of March 31, 1976 had assets of $14 million, Shareholders Equity of $4.3 million, and net Investment Income for the year ended March 31, 1976 of $529 thousand.

Officers and directors of Allied Lending Corporation and their positions with Allied Capital Corporation are as follows:

Name and address	Position with Allied Lending	Position with Allied Capital
George C. Williams, 7709 Chatham Rd., Chevy Chase, Md. 20015.	President and director	President and director.
David J. Gladstone, 7202 Churchill Rd., McLean, Va. 22101.	Executive vice president and director.	Senior vice president.
T. Murray Toomey, 6204 Garnett Dr., Chevy Chase, Md. 20015.	Secretary and director	Secretary, director, and general counsel.
Henry J. Kaufman, 4201 Cathedral Ave. NW., Washington, D.C.	Director	Director.
Curtis S. Steuart, 4070 52d St. NW., Washington, D.C.	Chairman of board of directors	Chairman of board of directors.
Robbie P. Golsan, 2701 Connecticut Ave. NW., Washington, D.C. 20008.	Assistant secretary	Assistant treasurer and assistant secretary.
Harry T. Brill, 19117 Aldenham Ct., Germantown, Md. 20767.	Treasurer and assistant secretary.	Do.
Alan J. Leinwand, 460 Poinciana Dr., Hallandale, Fla. 33009.	Vice president	Vice president.

Allied Lending Corporation will begin operations with $500,000 initial capitalization. Allied Lending Corporation will initially operate in the States of Maryland, Virginia, Florida and the District of Columbia, expansion to other states may occur after operations commence. Lending will be made to any qualified small business with a general tending to retail drug business.

Matters involved in SBA's consideration of the application include the general business reputation and character of management and the probability of successful operation of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and the Regulations.

Notice is hereby given that any interested person may, not later than on or before November 2, 1976, submit to SBA in writing, relevant comments on the proposed company and/or its management. Communications should be addressed to: Director, Office of Program Development, SBA, 1441 L Street, N.W., Washington, D.C. 200416.

A copy of this notice shall be published in a newspaper of general circulation in Baltimore, Maryland, Richmond, Virginia, Miami and Jacksonville, Florida, and Washington, D.C.

ROBERT N. MARSHALL,
Acting Director,
Office of Program Development.

[FR Doc.76-30220 Filed 10-15-76;8:45 am]

[Declaration of Disaster Loan Area No. 1270, Amendment No. 1]

CALIFORNIA

Declaration of Disaster Loan Area

The above-numbered Declaration (See 41 FR 44080) is amended in accordance with the President's Declaration of October 1, 1976, to include damage resulting from severe storms and flooding associated with Tropical Storm Kathleen, beginning about September 10, 1976, and from severe storms and flooding beginning about September 23, 1976; to include San Bernardino County and adjacent counties within the State of California; and to extend the filing date for physical damage until the close of business on December 2, 1976, and for economic injury until the close of business on July 1, 1977.

Dated: October 5, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-30420 Filed 10-15-76;8:45 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

TRADE POLICY STAFF COMMITTEE

Timetable for Second Biannual Review of Petitions for Modifications of the List of Articles Receiving Duty-Free Treatment Under the Generalized System of Preferences

I. In order to be included in the second biannual review, petitions for modification of the list of articles receiving duty-free treatment under the GSP must be received not later than the close of business Monday, November 15.

II. Public hearings on such petitions will begin on December 14, at a time and place to be announced in the FEDERAL REGISTER.

III. Any modifications to be made as a result of this review are intended to be implemented on or before March 1, 1977.

1. *Timetable for Review.* Notice is hereby given of the schedule for the second biannual review of petitions for modifications of the list of articles receiving duty-free treatment under the Generalized System of Preferences ("GSP") for developing countries, provided for in Title V of the Trade Act of 1974 (88 Stat. 2066–71, 19 U.S.C. 2461–2465). Petitions requesting additions to or deletions from the list of articles receiving duty-free treatment under the GSP should be submitted in accordance with regulations codified at 15 C.F.R. Ch. XX, Part 2007 (40 FR 60041, December 31, 1975) (hereinafter, the "GSP regulations").

Such petitions may be submitted at any time. In order to be included in the second biannual review described in this notice, however, petitions must be received prior to the close of business on Monday, November 15, 1976.

The Chairman of the Trade Policy Staff Committee ("TPSC") requests that petitions be addressed to the Chairman of the Subcommittee on Generalized Preferences (hereinafter, the "GSP Subcommittee") of the TPSC, Room 720, 1800 G Street, N.W., Washington, D.C. 20506. The telephone number of the Subcommittee Chairman is (202) 395–6135. The TPSC Chairman also has requested that the Chairman of the GSP Subcommittee notify petitioners directly, as soon as possible after November 15, as to whether their petitions have been accepted for review pursuant to the GSP regulations. The Chairman of the TPSC may extend the November 15 deadline in particular cases, for reasons of equity and public policy.

2. *Timetable for review.* As soon as possible following November 15, a list of petitions that have been accepted for the current review will be published in the FEDERAL REGISTER, and the place and time of the public hearings that will

start December 14 will be announced in the FEDERAL REGISTER. Immediately following the conclusion of public hearings, the GSP Subcommittee will begin reviewing petitions.

It is intended that any action to be taken as a result of this review will be implemented on or before March 1, 1976, at the same time that changes in the program necessitated by the annual review pursuant to the "competitive need" provisions in Section 504(c) of the Trade Act are made.

3. *Guidance for Petitioners.* On the basis of experience gained during the first biannual review of petitions for modifications of the GSP product coverage, it is evident that certain information pertaining to domestic production of articles like or directly competitive with articles designated for duty-free treatment under the GSP is particularly helpful in reviewing petitions with respect to withdrawals, suspensions, or limitations of duty-free treatment pursuant to section 504(a) of the Trade Act:

(a) Production data, both for a single firm that is a petitioner and, to the extent possible, for the industry to which the petition pertains, for the product or products that are the subject of the petition, during the current year and the three previous years;

(b) Employment data, both for a single firm that is a petitioner and, to the extent possible, for the industry to which the petition pertains, for the current year and the three previous years, particularly with respect to the workers engaged in the production of the product or products that are the subject of the petition;

(c) Sales data, both for a single firm that is a petitioner and, to the extent possible, for the industry to which the petition pertains, for the current year and the three previous years, for the product or products that are the subject of the petition;

(d) Data with respect to the profitability of a single firm that is a petitioner and, to the extent possible for the industry to which the petition pertains, for the current year and the three previous years, both for the branch of a petitioner's firm producing the specific product or products that are the subject of the petition, and for the operations of a petitioner's firm as a whole;

(e) Cost data, both for a single firm that is a petitioner and, to the extent possible, for the industry to which the petition pertains, for producing and merchandising the product or products that are the subject of the petition, for the current year and the three previous years (including raw material costs, labor costs, and overhead);

(f) To the extent possible, the number and location of firms in the industry producing the specific product or products that are the subject of the petition, and the effect of the GSP program on the number of firms in such industry;

(g) Any information tending to show that the industry's competitive situation in the United States is being affected by imports receiving duty-free treatment under the GSP, and not by other economic factors.

In complying with subparagraphs 2007.1(a)(5) of the regulations, regarding the content of petitions requesting withdrawals, suspensions, or limits of duty-free treatment accorded to articles under the GSP, petitioners are requested to supply the information cited above to the best of their ability.

In preparing petitions requesting the designation of additional articles as eligible for the GSP, petitioners should be guided by section 2007.1(a)(4) of the GSP regulations.

The Chairman of the TPSC retains the authority, pursuant to section 2007.2 of the GSP regulations, to determine that a petition presents sufficient information on which to proceed with a review, despite the failure of the petition to conform strictly to the GSP regulations or to specify the information requested herein.

Section 2007.7 of the GSP regulations provides that information submitted in confidence will be exempt from public inspection, or will be returned to the person who submitted it if it is determined that such information cannot legally be exempt from public inspection.

WILLIAM B. KELLY,
Chairman, Trade Policy Staff Committee.

[FR Doc.76-30664 Filed 10-15-76;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 170]

ASSIGNMENT OF HEARINGS

OCTOBER 13, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 544 (Sub-No. 1), Vancouver-Portland Bus Co., now assigned November 8, 1976 at Portland, Oregon, has been postponed indefinitely.

MC-C-9025, Kane Transfer Company v. Jacobs Transfer, Inc., now assigned October 19, 1976, at Washington, D.C. is canceled and reassigned for Prehearing Conference on October 19, 1976 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127042 (Sub-No. 171), Hagen, Inc., now assigned October 15, 1976, at Omaha, Nebr., is canceled and application dismissed.

FF-480, Midwest Container Services, Inc. now assigned December 6, 1976 at Columbus, Ohio, and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 117940 (Sub No. 176), Nationwide Carriers, Inc. now assigned December 2, 1976 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 117565 (Sub 93), Motor Service Company, Inc. now assigned December 1, 1976 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 95540 (Sub 954), Watkins Motor Lines, Inc. now assigned November 30, 1976 at Columbus, Ohio and will be held in Room 235, Federal Office Building, 85 Marconi Boulevard.

MC 97526 (Sub 2), Nevada Freight Lines, Inc. now assigned December 8, 1976 at Reno, Nevada and will be held in Room 4002, 300 Booth Street.

MC-C 8932, Garrett Freight Lines, Inc., et al v. ABC Truck Lines, Inc., et al now assigned December 6, 1976 at Reno, Nevada and will be held in Room 4002, 300 Booth Street.

MC 124692 (Sub 165), Sammons Trucking now assigned November 30, 1976 at Portland, Oregon and will be held in Room 103, Pioneer Courthouse, 555 S.W. Yamhill Street.

MC 9859 (Sub 3), Kane Transfer Company now assigned November 9, 1976 at Salisbury, Maryland and will be held in Room 106, Government Office Building.

MC 141736, James A. Jana, dba Jana Cartage Company now assigned November 30, 1976 at Columbus, Ohio and will be held in Room 228, Federal Building, 85 Marconi Boulevard.

MC-C 9033, Browning Freight Lines, Inc. et al v. Northwest Transport Service, Inc. et al now assigned November 9, 1976 at Salt Lake City, Utah and will be held at the Public Service Commission Hearing Room, 330 East 4th South Street.

MC 130370, Lilliam Hofmeister, d.b.a. Hofmeister Tours now assigned November 8, 1976 at Baltimore, Maryland and will be held in Room 108, Federal Building, 31 Hopkins Plaza.

MC 135236 (Sub 9), Logan Trucking, Inc. now being assigned December 14, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 109397 Sub 330, Tri-State Motor Transit Co., and MC 112304 Sub 108, Ace Doran Hauling & Rigging Co., now being assigned December 13, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110563 (Sub-No. 174), Coldway Food Express, Inc., now assigned October 22, 1976, at New York, N.Y., is canceled and the application is dismissed.

MC 106074 (Sub 23), B & P Motor Lines, Inc. now being assigned December 16, 1976 at the Offices of the Interstate Commerce Commission in Washington, D.C.

AB-6 (Sub-No. 34), Burlington Northern, Inc. Abandonment of Operations Between Eureka and Pleasant View in Walla Walla County, Washington, now assigned November 3, 1976 at Walla Walla, Washington; will be held in the County City Airport, Building 602.

MC 95540 (Sub-No. 733), Watkins Motor Lines, Inc., now assigned November 15, 1976 at Seattle, Washington; will be held in Room 2866, 28th Floor, Federal Building, 915 Second Avenue.

I&SM 29192, Multiple Tender Allowances, Transamerican Freight Lines and I&SM 29193, Multiple Tender and Pickup Allowances, Transamerican Freight Lines, now assigned October 27, 1976, at Washington, D.C., is postponed to December 28, 1976, at the Offices of the Interstate Commerce Commission, Washington, D.C. Cost and studies and any other studies will be due on or before December 14, 1976.

AB 1 (Sub 50), Chicago and North Western Transportation Company Abandonment Between Sleepy Eye and Redwood Falls, In

Redwood and Brown Counties, Minnesota now being assigned December 7, 1976 (2 days) at Redwood Falls, Minnesota in a hearing room to be later designated.

MC 118202 (Sub 50), Schultz Transit, Inc. now being assigned December 9, 1976 (1 day) at St. Paul, Minnesota in a hearing room to be later designated.

MC 128772 (Sub 12), Star Bulk Transport, Inc. now being assigned December 10, 1976 (1 day) at St. Paul, Minnesota in a hearing room to be later designated.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30444 Filed 10-15-76;8:45 am]

[AB 7 (Sub-No. 26)]

CHICAGO, MILWAUKEE, ST. PAUL AND PACIFIC RAILROAD CO.

Abandonment Between Bovill and Elk River, in Latah and Clearwater Counties, Idaho

OCTOBER 7, 1976.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Environmental Affairs Staff to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; telephone (202) 275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30445 Filed 10-15-76;8:45 am]

[Docket No. M-28963]

MANHATTAN TRANSIT COMPANY, NEW YORK, N.Y., AND NEW JERSEY

Investigation and Suspension

OCTOBER 1, 1976.

The Interstate Commerce Commission hereby gives notice that its Environmental Affairs Staff has concluded that the proposed increase in interstate regular-route passenger fares between New York, N.Y., and points in New Jersey, does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2)(C) of the NEPA.

It was concluded, among other things, that there will be no diversion of commuter/passenger traffic as a result of the proposed 10 percent fare increase. Consequently, the local environment would not be affected beyond existing levels of pollution and traffic congestion. If, however, diversion were to occur (as computed by a resistance formula), the increase in automobile traffic and concomitant impacts on congestion and the environment would be insignificant.

This conclusion is contained in a staff-prepared environmental threshold assessment survey, which is available on request to the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-275-7011.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-30447 Filed 10-15-76;8:45 am]

[Notice No. 40]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission within 30-days after the date of this publication. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76700, filed August 16, 1976. Transferee: ASSOCIATED FURNITURE FREIGHTWAYS COMPANY, a corporation, 440 Boston Post Road, Orange, Conn. Transferor: THE FURNITURE TRANSPORT COMPANY, INC., Furniture Row, P.O. Box 392, Milford, Conn. 06460. Applicants' attorney: John E. Fay, 630 Oakwood Avenue, West Hartford, Conn. 06110. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 67200, and MC 67200 Subs-No. 5, 10, 11, 12, 15, 16, 19, 25, 26, 27, 28, 34, 36, 38, 41, and 42G, authorizing the transportation of furniture frames and materials used in the manufacture of furniture, linoleum, rugs, and linoleum floor coverings, new upholstered furniture, carpets, rugs, boats, machinery, general commodities, lamps and shades, baby carriages, strollers, play yards, high chairs, organs, and other specified commodities, from and to points in Massachusetts, New York, Connecticut, Pennsylvania, Maryland, Virginia, Rhode Island, Maine, Vermont, Delaware, Alabama, Florida, Georgia, and the District of Columbia and that portion of Certificate No. MC 67200 (Sub-No. 43), authorizing the transportation of organs, from the warehouse terminal and storage facilities of The Furniture Company, Inc., at or near Milford, Conn., to points in Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, New York, New Jersey, and Pennsylvania. Transferee presently holds no authority from this Commission. Application for temporary authority under Section 210a (b) has been approved.

No. MC-FC-76725, filed September 2, 1976. Tranferee: WTC AIR FREIGHT INC., D/B/A AIR-ROAD EXPRESS, P.O. Box 92923, Los Angeles, Calif. 90009. Transferor: W.T.C. AIR FREIGHT, INC., 5959 West Century Boulevard, Los Angeles, Calif. 90045. Applicants' attorney: Louis P. Haffer, Haffer & Alterman, 1730 Rhode Island Avenue, N.W., Washington, D.C. 20036. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 127893 (Sub-No. 1), issued July 27, 1972, authorizing the transportation of *General commodities*, with exceptions, between Bradley International Airport, Windsor Locks, Conn., on the one hand, and, on the other, North Adams and Williamstown, Mass., and Pownal, Vt., and between Albany, N.Y., and Bradley International Airport at Windsor Locks, Conn., restricted to traffic having an immediately prior or subsequent movement by air. Transferee presently holds no authority from the Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-76738, filed September 12, 1976. Transferee: C. D. SPAIN & J. T. SPAIN, D/B/A SPAINS TRANSFER, 1600 Valley St., Box 68, Minot, N. Dak. 58701. Transferor: LLOYD D. MITCHELL, D/B/A MITCHELL TRANSFER, Hwy 2 & 52 Bypass, Minot, N. Dak. 58701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 134927 and MC 134927 (Sub-No. 1), issued March 5, 1971, and November 20, 1972, respectively authorizing the transportation of general commodities, with exceptions, between Watford City, N. Dak., and Minot, N. Dak., serving all intermediate points and the off-route points of Charlson, Parshall, Plaza, and Mankoto, N. Dak., and between Minot, N. Dak., and Van Hook, N. Dak., serving all intermediate points, over described regular routes. Transferee is presently authorized to operate as a common carrier under certificates Nos. MC 121745 and MC 121745 (Sub-No. 1).

Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76747, filed September 20, 1976. Transferee: JERRY SIMPSON, D/B/A THORNTON TRANSFER, R.R. No. 2, Griswold, Iowa 51535. Transferor: LOUIS E. KEENEY, D/B/A THORNTON TRANSFER, 616 2nd Ave., Box N, Griswold, Iowa 51535. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 48602, issued July 20, 1967, authorizing the transportation of general commodities, with exceptions, between Omaha, Nebr., on the one hand, and, on the other, Council Bluffs, Treynor, Carlson, Macedonia, Kemling, Elliott, and Griswold, Iowa. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76763, filed October 4, 1976. Transferee: A. E. MORRIS HAULING, INC., Route 3, Box 252–A, Virgilina, Va. 24598. Transferor: A. E. MORRIS, doing business as A. E. MORRIS CONTRACT HAULING, Route 3, Box 252–A, Virgilina, Va. 24598. Applicants' representative: A. E. Morris, Route 3, Box 252–A, Virgilina, Va. 24598. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 128669 (Sub-No. 3), MC 128669 (Sub-No. 5), and MC 128669 (Sub-No. 6), issued by the Commission February 7, 1968, May 23, 1974, and November 15, 1974, respectively, as follows: Asphalt, in bulk, sand, crushed stone, premixed asphalt, and liquid asphalt, from and to specified points in North Carolina and Virginia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76765, filed October 4, 1976. Transferee: H.M.H. MOTOR SERVICE, Route 130, Cranbury, N.J. 08512. Transferor: H.M.H. ENTERPRISES, INC., Route 130, Cranbury, N.J. 08512. Applicants' representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permits Nos. MC 115212, MC 115212 (Sub-No. 1), MC 115212 (Sub-No. 2), MC 115212 (Sub-No. 4), MC 115212 (Sub-No. 10), MC 115212 (Sub-No. 11), MC 115212 (Sub-No. 12), MC 115212 (Sub-No. 14), MC 115212 (Sub-No. 16), MC 115212 (Sub-No. 17), MC 115212 (Sub-No. 22), and MC 115212 (Sub-No. 23), issued by the Commission October 24, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 9, 1975, June 11, 1975, and February 27, 1974, respectively, as follows: Such commodities as are dealt in by retail women and children's ready-to-wear apparel stores, and in connection therewith, supplies and equipment used in the conduct of such business, clothing, such as is dealt in by discount department stores, between specified points in New York and New Jersey, on the one hand, and, on the other, points in the United States (except Alaska, Utah, and Hawaii). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC–FC–76769, filed October 6, 1976. Transferee: E. F. KANE, doing business as KANE TRANSPORT SYSTEMS, 130 E. South St., York, Pa. 17403. Transferor: J. W. JONES TRUCKING, INC., 316 N. Albermarle St., York, Pa. 17402. Applicants' representative: E. F. Kane, P.O. Box 251, York, Pa. 17405. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 134128 (Sub-No. 2), issued by the Commission, November 20, 1975, as follows: Flooring and materials and supplies used in the installation thereof, from the plantsites of Tate Architectural Products, Inc., at Jessups, Md., and Donn Access Floors, Inc., at Forrest Hill and Fallston, Md., to points in the United States except Alaska, Hawaii, Virginia, North Carolina, South Carolina, Georgia, and points in that part of West Virginia south of U.S. Highway 50, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–30446 Filed 10–15–76;8:45 am]

TRANSPORTATION OF "WASTE" PRODUCTS FOR REUSE OR RECYCLING

Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, Ex Parte No. MC–85, 124 MCC 583 (1976).

An original and one copy of protests against applicant's participation may be filed with the Interstate Commerce Commission on or before November 8, 1976. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence November 17, 1976, subject to its tariff publication effective date.

P–29–76 (Special Certificate—Waste Products) filed August 27, 1976. Applicant: A. LEANDER McALISTER TRUCKING COMPANY, a corporation, P.O. Box 2214, Wichita Falls, Tex. 76307. Applicant's representative: Hardy McAlister (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *agricultural products, alloys, animal products, carbon products and by-products, construction materials, chemicals, chemical solutions and compounds, electrical products, electronic products, food, food by-products, forest products and by-products, garbage, glass, meat products and by-products, metals, nuclear products and by-products, paper products and by-products, petroleum products and by-products and derivatives, plastic products and by-products, synthetic compounds, trash,* and *vehicles,* between points in the United States (except Alaska and Hawaii), in furtherance of recognized pollution control programs sponsored by: (1) Prime Metal Trading Company of Denver, Colo., for the purpose of recycling vehicles and various metal products; (2) City of Wichita Falls, Tex., for the purpose of recycling municipal waste; and (3) Century Enterprises of Denver, Colo., for the purpose of recycling vehicles and various metal products. Note: Applicant presently holds Waste Products Certificate No. P–41–73.

P–30–76 (Special Certificate—Waste Products) filed September 27, 1976. Applicant: NEWMAN BROS. TRUCKING COMPANY, a corporation, 6559 Midway Road, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *crushed motor vehicle bodies,* from points in Arkansas, Colorado, Louisiana, New Mexico, and Oklahoma, to points in Texas, in furtherance of a recognized pollution control program sponsored by Ray Huff and Sons Auto Crushers of North Little Rock, Ark., for the purpose of recycling scrap iron and steel.

P–31–76 (Special Certificate—Waste Products) filed September 20, 1976. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *crushed motor vehicle bodies,* from Denver, Colo., to points in the United States, including Alaska but excluding Hawaii, in furtherance of a recognized pollution control program sponsored by Century Enterprises of Denver, Colo., for the purpose of recycling scrap iron and steel.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76–30448 Filed 10–15–76;8:45 am]

federal register

MONDAY, OCTOBER 18, 1976

PART II:

FEDERAL ELECTION COMMISSION

■

FEDERAL ELECTION CAMPAIGN ACT OF 1971

Disclosure and Matching Fund

FEDERAL ELECTION COMMISSION

[11 CFR Parts 102, 104]

[Notice 1976-54]

PRESIDENTIAL PRIMARY MATCHING FUNDS DISCLOSURE REQUIREMENTS

The Federal Election Commission proposed the following amendments to its regulations transmitted to the Congress on August 3, 1976 and published in the FEDERAL REGISTER on August 25, 1976, 41 FR 35932.

During the course of conducting Presidential Primary Matching Fund audits to date, the Compliance Review staff has found that the purpose of an expenditure is insufficient to adequately explain the reason why an expenditure was made. For example, during some of the audits conducted to date, records showed a substantial number of payments made to individuals as advances and reimbursements of expenses. A more detailed analysis showed the funds being issued to field agents and ultimately being spent on items such as office supplies, travel, room rental and personal services.

The problem becomes more difficult in those cases where an expenditure is supported by a copy of a cancelled check and/or a contemporaneous memo. The staff has found that most contemporaneous memos are generated by an official of the committee. In those cases, the staff has no real proof that the liability was incurred, that the expenditure was made for the purpose stated, or that the expenditure was related to the candidate's campaign.

Although the practices as noted above may not result in non-compliance with the Commission's regulations, they do result in inadequate information as to what specific reason an expenditure was made, and do not allow the auditor to make an adequate determination of whether the expenditure is campaign-related.

Therefore, the Commission proposes that the regulations be amended to require more adequate recordkeeping as follows:

§ 102.9 [Amended]

(1) Section 102.9(c) (3) (iii) is amended as follows:

(c) * * *

(3) * * *

(iii) The particulars of the expenditures

* * * * *

The term "particulars" should be defined to include a description of the goods or services purchased in sufficient detail that its regulation to the campaign is clearly established. For example, it should go beyond "printing" to "printing for campaign brochures," or "travel" to "travel for campaign rally in Louisville."

(2) Section 102.9(c) (4) is amended as follows:

(c) * * *

(4) When a receipted bill is not available, the treasurer may keep * * *

This change is to indicate that a committee does not have a choice between a receipted bill and the cancelled check and some other document, but that the cancelled check and other document may be substituted only when a receipted bill is unavailable.

(3) Section 102.9(c) (4) (ii) is amended as follows:

* * * * *

(c) * * *

(4) * * *

(ii) The bill, invoice or other contemporaneous memorandum of the transaction supplied to the committee by the payee containing the same information as referred to in paragraph (3) of this paragraph.

* * * * *

The addition of this phrase provides evidence that the liability existed and that payment was received from a source outside the committee's records. Such outside confirmation is required by good auditing practice.

(4) Section 102.10 is amended as follows:

§ 102.10 Petty cash fund.

* * * If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements, including the particulars of each disbursement from the fund. Such a change would make this section consistent with § 102.9(c) (3) (iii) as revised in subparagraph (1) above.

§ 104.2 [Amended]

(5) Section 104.2(b) (9) is amended as follows:

* * * * *

(b) * * *

(9) * * * together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made.

* * * * *

This recommended change is made in response to a problem encountered in some of the audits performed to date. In some instances, committees have made substantial transfers of funds to agents in the field which are deposited in and expended from bank accounts designated by the committees. However, for disclosure purposes, the transfers of funds to the committee agents, rather than the use of funds by the agents, are reported as expenditures by the committees. The cash maintained by the agents at the close of a given reporting period is not disclosed as cash on hand since it has already been reported as expended in the form of a transfer to the agent.

As a result of this practice, the committee's cash on hand and total expenditures as of a given date are not accurately reflected in the disclosure reports. Furthermore the actual use and the ultimate recipients of funds are not properly disclosed.

Changing the word "purpose" in § 104.2(b) (9) to "particulars" as defined in (1) above would require the disclosure of the ultimate payee of funds transferred to committee agents.

The Commission requests comments from the public in writing addressed to: Regulation Section, Office of General Counsel, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463, for a period of two weeks from October 18, 1976.

Dated: October 12, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-30310 Filed 10-15-76;8:45 am]

[11 CFR Part 134]

[Notice 1976-53]

PRESIDENTIAL PRIMARY MATCHING FUND REGULATION

Proposed Rulemaking

The Federal Election Commission today transmits amendments to the regulations sent to the Congress on August 3, 1976.

The Commission transmitted to the Congress on August 26 an amendment to § 134.3(c) (2) of the matching fund regulation. That subparagraph now reads:

(c) * * *

(2) If on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received thereafter may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations. However, as of the date when the amount or amounts of matching funds received after ineligibility equal(s) the amount of the candidate's net outstanding campaign obligations, the candidate shall be obliged to repay to the Treasury that portion of any unexpended balance remaining on that date in the candidate's accounts (less the matching payments so received) which bears the same ratio to such balance as the total amount received from the matching payment account bears to the aggregate of all contributions and matching funds deposited in all the depositories through that date. Repayment shall be made within 30 days thereafter, but not later than 6 months after the end of the matching payment period.

As amended, the regulation still does not adequately cover the situation of a candidate who shows a net debt position on the date of ineligibility, but soon after raises sufficient contributions to cover the outstanding obligations.

We therefore proposed a further amendment to § 134.3(c) (2) to rectify this situation. Therefore, it is proposed to amend 11 CFR Part 134 by amending § 134.3(c) (2) as set forth below:

§ 134.3 Liquidation of obligations; repayment.

* * * * *

(c) * * *

(2) If on the last day of candidate eligibility there are net outstanding campaign obligations, any matching funds received thereafter may be retained for a period not exceeding 6 months after the end of the matching payment period in order to liquidate those obligations.

However, as of the date the amount of matching funds received after ineligibility when added to contributions received after ineligibility, equals the amount of the candidate's net obligations outstanding on the date of ineligibility, the candidate shall not be entitled to further matching payments; but such further matching payments may be made to the extent of obligations incurred prior to ineligibility, but omitted from the original estimate of net obligations where such omitted obligations cannot be paid from contributions received after ineligibility.

* * * * *

The following examples show the effect of the proposed amendment to § 134.3 of the proposed regulations:

On the date of candidate ineligibility, the campaign's financial status is:

Outstanding obligations (includes obligations incurred prior to date of ineligibility for winding down expenses actually disbursed after the date of ineligibility	$1,500,000
Cash on hand (deposited and undeposited	500,000
Receivables	100,000
New outstanding campaign obligations	900,000

(a) Subsequent to the ineligibility date, the campaign receives and submits for certification $500,000 in matchable contributions. Under the proposed amendment, only $400,000 ($900,000 less $500,000 in private contributions received) could be certified. It is presumed that the candidate would then retire the net outstanding obligations with the $500,000 in private funds collected together with the $400,000 in additional Federal funds certified, thereby reaching a zero balance in the campaign accounts.

Under the present regulation, the full $500,000 would be certified, giving the candidate $1,000,000 in total with which to retire the $900,000 in net outstanding obligations with a repayment of only a portion of the $500,000 in cash on hand on the date of last certification (or a lesser amount if a portion of the private funds collected had been expended by that date).

(b) Subsequent to the ineligibility date, the campaign receives $300,000 in private contributions which it submits together with an additional $100,000 in matchable contributions received prior to the ineligibility date. As noted in (a) above, the $400,000 could be certified.

Under the proposed amendment, after the candidate is certified for the $400,000, he could be certified for a maximum of $200,000 ($900,000 less $300,000 in private funds received after the date of ineligibility less the $400,000 certified).

However, under the present regulation, he would still be entitled to $500,000 ($900,000 less the $400,000 certified) with a repayment of a portion of the cash on hand on the date that total certifications after the ineligibility date amount to $900,000.

(c) Assume that after the candidate has provided the Commission a statement of his net outstanding campaign obligations on the date of ineligibility, he becomes aware of an additional $100,000 in outstanding qualified campaign obligations which were incurred prior to his ineligibility date.

Under the proposed amendment, he could still be certified for a maximum of $100,000 in matching funds submitted thereafter to repay these additional obligations. However, the amount certified would always be reduced by the amount of private funds collected after the date of ineligibility which could have been applied to the retirement of such obligations.

The Commission requests comments from the public in writing addressed to: Regulation Section, Office of General Counsel, Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463, for a period of two weeks from October 18, 1976.

Dated: October 12, 1976.

VERNON W. THOMSON,
Chairman for the
Federal Election Commission.

[FR Doc.76-30309 Filed 10-15-76;8:45 am]

FEDERAL ELECTION COMMISSION

[Notice 1976–55]

Authorization on Political Communications

The Federal Election Commission is of the view that a notice of authorization which follows the format below satisfies the requirement of 2 U.S.C. 441d and 435 of the Federal Election Campaign Act of 1971, as amended, and insofar as broadcast matter is concerned, of the Communications Act of 1934, as amended.

ELEMENTS OF PROPER NOTICE OF AUTHORIZATION

(Note that elements 2 and 4 need be included only if the bracketed language so requires)

1. "PAID FOR BY (*enter name of individual or political committee financing the communication, if different from name appearing under element 3 below*),

2. [necessary only where a political committee finances an unauthorized communication] (*either name of committee's parent or sponsoring organization in parentheses*),

3. AND AUTHORIZED BY (*enter name of candidate or candidate's committee as appropriate.*)" (or, NOT AUTHORIZED BY ANY CANDIDATE.")

4. [necessary only if communication is from a political committee and solicits contributions]" "A COPY OF OUR REPORT IS FILED WITH THE FEDERAL ELECTION COMMISSION AND IS AVAILABLE FOR PURCHASE FROM THE FEDERAL ELECTION COMMISSION, WASHINGTON, D.C."

5. In the case of broadcast or non-broadcast communications paid for by a candidate or his or her committees, "PAID FOR" is an acceptable disclaimer, since a candidate paying for a communication clearly connotes authorization.

Examples:

1. A political communication which is paid for by John Smith which advocates the election of Robert Jones, which is authorized by Robert Jones' campaign committee, and which solicits contributions to candidate Jones campaign, would have as a notice sufficient to meet the legal requirements of both a broadcast or non-broadcast political communication the following:

"Paid for by John Smith and authorized by Robert Jones for Congress Committee. A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

2. If the same communications was financed and authorized by Robert Jones' campaign committee, Robert Jones for Congress, the notice would state:

"Paid for by Robert Jones for Congress Committee. A copy of our report is filed and is available for purchase from the Federal Election Commission, Washington, D.C."

3. If a political committee, the Good Government Committee (whose parent is the ABC Corporation) issues a political advertisement which advocates the defeat of Robert Jones, which is not authorized by any candidate who opposes Robert Jones, and which does not solicit contributions, the notice would state:

"Paid for by Good Government Committee (ABC Corporation) and not authorized by any candidate."

4. If, of course, the same political advertisement solicited contributions and was authorized by the campaign committee of Robert Jones' opponent, Larry Loe for Congress, the notice would state:

"Paid for by the Good Government Committee and authorized by Larry Loe for Congress. A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

5. In the final example, the ABC Political Committee issues a political communication advocating the election of Larry Loe instead of the defeat of Robert Jones, and, although unauthorized by Larry Loe, his campaign committee, or any of their agents, solicits contributions to Larry Loe as is the previous example. In this case, the notice would state:

"Paid for by the Good Government Committee (ABC Corporation) and not authorized by any candidate. A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C."

Dated: October 12, 1976.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

[FR Doc.76-30311 Filed 10-15-76;8:45 am]

[Notice 1976–56]

POLICY STATEMENT

Application of Calendar Year Limitation Provisions of the Federal Election Campaign Act to 1976 Federal Election Activity

The Commission today publishes a policy statement concerning the application of contribution limitations to Federal candidates and committees, and certain other limitations, that either were in existence prior to the 1976 Amendments to the Federal Election Campaign Act of 1971, or were introduced by the 1976 Amendments and had an effective date of May 11, 1976, to 1976 Federal election activity.

Dated: October 12, 1976.

VERNON W. THOMSON,
Chairman for the Federal Election Commission.

POLICY STATEMENT

APPLICATION OF CALENDAR YEAR LIMITATION PROVISIONS OF THE FEDERAL ELECTION CAMPAIGN ACT TO 1976 FEDERAL ELECTION ACTIVITY

In this policy statement the Commission will discuss certain special problems concerning limitations per calendar year that will arise only in 1976—problems which occur because the Federal Election Campaign Act Amendments of 1976 took effect in the middle of the calendar year.

The 1976 Amendments to the Federal Election Campaign Act of 1971 (the "Act") contained limitations on contributions, expenditures, and honoraria during a designated period: some limitations are per calendar year, others are per Federal election. Several of these limitations were part of existing Federal election law (the 1974 Amendments to the Act); others were first introduced by the 1976 Amendments, and had an effective date of May 11, 1976. There are thus two sets of limitations now in effect. First, there are those enacted by the 1974 Amendments which were reenacted by the 1976 Amendments (for purposes of this policy statement, these will be designated "1974 limitations"). Second, there are those enacted for the first time by the 1976 Amendments (these will be desginated "1976 limitations").

Clearly, for 1974 limitations, "calendar year" will continue to have its normal meaning; that is, any 1974 limitation will apply to the period January 1 through December 31, 1976. However, the application of the term "calendar year" must be clarified for 1976 limitations. In brief, an activity covered by a 1976 limitation was unrestricted before May 11, 1976. Hence, the limitation per calendar year only applies to the period May 11 through December 31, 1976, regardless of any contribution activity that may have occurred before May 11.

The following activities with respect to Federal elections were affected by the limitation provisions of the 1976 Amendments, and will be discussed infra, in the order listed:

I. Contributions by persons (including individuals, partnerships, committees and organizations) to national political party committees and to other political committees;

II. Contributions by multicandidate political committees to national political party committees and to other political committees;

III. Contributions by the senatorial campaign committees to senate candidates;

IV. Contributions by multiple political action committees established by corporations, labor organizations, and other organizations;

V. Personal expenditures by presidential candidates accepting public financing; and

VI. Acceptance of honoraria by public officials and employees.

In each case the 1974 limitation and 1976 limitation will be discussed, and an illustration of the effect of the 1976 Amendments on the particular activity will be given.

I. CONTRIBUTIONS BY PERSONS

The 1976 Amendments introduced new contribution limitations, now codified in 2 U.S.C. 441a, that apply to contributions

by persons[1] in "any calendar year." The Commission concludes that, for purposes of contribution activity in 1976 only, the term "calendar year" contained in these new limitations is not the normal period from January 1st through December 31st, but is instead the period from the date of enactment of the 1976 Amendments (May 11, 1976) through December 31, 1976.

This Commission determination is based on the following language contained in the Joint Explanatory Statement of the Committee of Conference, H. Rep. No. 94–1057, p. 59 (1976).

> It is the conferees' intent that the additional calendar year contribution limitations imposed by section 320 of the Act (2 U.S.C. 441a) shall apply in the first instance to the period beginning on the date of the enactment of the conference substitute and extending through December 31, 1976. Thereafter, of course, the term "calendar year" will be accorded its normal meaning.

The clear meaning of this language is that any "additional * * * limitations," that is, those that were not taken from the prior Act, would have their first "calendar year" under the 1976 Amendments shortened to the period from May 11, 1976, through December 31, 1976.

A. *1974 Contribution Limitations.* The limitations applying to contributions by persons that were incorporated into the 1976 Amendments from existing law[2] are the following:

> 1. $1,000 contribution limitation from a person to any candidate and his authorized political committees with respect to any Federal election, 2 U.S.C. 441a(a)(1)(A); (Formerly 18 U.S.C. 608(b)(1)) and
> 2. $25,000 limitation on total contributions by an individual per calendar year, 2 U.S.C. 441a(a)(3). (Formerly 18 U.S.C. 608(b)(3).)

Since these existing limitations were not "additional * * * contribution limitations" imposed by the 1976 Amendments, they would not be subject to the shortened calendar year. Therefore, with respect to these two limitations the term calendar year means the period from January 1, 1976, through December 31, 1976. Additionally, the Commission notes that the $1,000 contribution limitation applies with respect to any Federal election, and is not limited to a calendar year. Thus, any contribution made before May 11, 1976, for any Federal candidate's election must be included within the period "with respect to any election," and applied against the total contribution permitted.

B. *1976 Contribution Limitations.* The following contribution limitations are the "additional" limitations applying to contributions by persons (other than multicandidate political committees, see II infra) that were included in the 1976 Amendments:

> 1. $20,000 contribution limitation from a person to national political party committees in any calendar year, 2 U.S.C. 441a(a)(1)(B); and
> 2. $5,000 contribution limitation from a person to any other political committee in any calendar year, 2 U.S.C. 441a(a)(1)(C).[3]

These contribution limitations became effective on May 11, 1976. The intent of the conferees to modify "calendar year" to the period from May 11, 1976 through December 31, 1976 for the first year of these new limitations is clear. Therefore, the new limitations would not apply to any contribution made after December 31, 1975 and before May 11, 1976 falling within either of the above areas. In contrast, however, since the previously cited $1,000 and $25,000 contribution limitations were in existence prior to the 1976 Amendments to the Act, any contributions made during the period from January 1, 1976 through December 31, 1976 must be within these prescribed 1974 limitations.

The following example illustrates the application of these two different contribution periods, i.e., the period from January 1, 1976 through December 31, 1976 for the limitations incorporated from existing law, and the period from May 11, 1976 through December 31, 1976 for the new limitations introduced by the 1976 Amendments to the Act and signed into law on May 11, 1976.

If an individual on May 10, 1976 gave $12,000 to a national political party committee, this $12,000 would not be counted against his new $20,000 contribution limitation to national political party committees (1976 limitation). However, the $12,000 would be applied against his overall $25,000 annual contribution limitation (1974 limitation), and therefore in the period between May 11, 1976 and December 31, 1976 he could give no more than an additional $13,000 to the national political party committee (assuming he made no other contributions to any candidate or political committee during the period).

II. CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES

A. *1974 Contribution Limitation.* Prior to the enactment of the 1976 Amendments, multicandidate political committees[4] were subject to a single contribution limitation, under 18 U.S.C. 608(b)(2):

> No political committee (other than a principle campaign committee) shall make contributions to any candidate with respect to an election for Federal office which, in the aggregate, exceed $5,000.

This limitation, first enacted by the 1974 Amendments, was included in the 1976 Amendments, and is now codified in 2 U.S.C. 441a(a)(2)(A).

B. *1976 Contribution Limitations.* Two new limitations on contributions by multicandidate political committees were added by the 1976 Amendments:

> 1. $15,000 contribution limitation per calendar year to political committees established and maintained by a national political party, 2 U.S.C. 441a(a)(2)(B); and
> 2. $5,000 contribution limitation per calendar year to any other political committee, 2 U.S.C. 441a(a)(2)(C).

The effective date of these new contribution limitations was May 11, 1976, and therefore any contributions made by multicandidate political committees prior to May 11th would not be charged against these new limits.[5]

To illustrate, if a multicandidate political committee contributed $20,000 (or indeed any amount, no matter how large) to a national political party committee between January 1st and May 10th of 1976, it could still give an additional $15,000 to the committee between May 11th and December 31st. However, if the multicandidate political committee gave $5,000 to a Federal candidate prior to May 11, 1976, it could not contribute further to the same candidate for the same election, since the $5,000 limitation (18 U.S.C. 608(b)(2)) was in effect when the contribution was made, and the 1976 provision (2 U.S.C. 441a(a)(2)(A)) merely incorporated the existing limitation.

III. CONTRIBUTIONS BY THE SENATORIAL CAMPAIGN COMMITTEES

The final contribution limitation that was introduced by the 1976 Amendments is the following:

> $17,000 contribution limitation from the Republican or Democratic Senatorial Campaign Committee, or the national committee of a political party, or any combination thereof, to a candidate for the United States Senate during an election year, 2 U.S.C. 441(h).

This provision is both a restriction, and an expansion, of existing contribution rights. Prior to the enactment of the 1976 Amendments, both a senatorial campaign committee and a national

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[1] "Person" is defined in 2 U.S.C. §431(h) as "an individual, partnership, committee, association, corporation, labor organization, and any other organization or group of persons."

[2] In *Buckley* v. *Valeo*, 424 U.S. 1 (1976) the Supreme Court held the expenditure limitations contained in Title 18, U.S.C. were unconstitutional under the First Amendment, but the Court found the significant governmental interest in avoiding the actuality and appearance of corruption justified the limitations on contributions by persons and political committees.

[3] The Commission notes that if the political committee is a single candidate committee, or if the donor gives to the committee "with the knowledge that a substantial portion will be contributed to, or expended on behalf of" a specific candidate (see § 110.1(h) of the regulations), the contribution to the committee is considered a contribution to the candidate, and therefore limited to the donor's candidate contribution limit of $1,000 (or $5,000 if the donor is a multicandidate political committee). See the Commission's Policy Statement on Contributions to Committees Making Independent Expenditures (41 FR 44130 October 6, 1976).

[4] "Qualified multicandidate committee" was the term which came to be used under the 1974 Amendments. The definition is the same: A political committee registered with the Commission six months, which has received contributions from more than 50 persons, and, except for any State political party organization, has made contributions to 5 or more Federal candidates. 2 U.S.C. 441a(a)(4).

[5] See discussion under I above.

party committee could give a senate candidate $5,000 per election, under the 1974 limitation contained in 18 U.S.C. 608(b)(2). If there were three elections (primary, runoff and general) there was a possible total contribution to a senate candidate of $30,000.[6] This amount is now reduced to a maximum of $17,500. However, the 1976 limitation in section 441(h) quoted above also increases the permissible amount a senate campaign committee or a national party committee can give to a senate candidate; either may give $17,500 at any time during the election year; if the other does not contribute to the same candidate.

As an "additional calendar year contribution limitation,"[7] any restricting effect of 441(h) would only be felt after its enactment on May 11, 1976. Therefore, if both the Democratic Senatorial Campaign committee and the Democratic National Committee gave the same senate candidate $10,000 prior to May 11, 1976 (assuming a primary and general election) for a total of $20,000, no refund would be required.

However, section 441(h) incorporated the $5,000 per candidate per election contribution limitation that was applicable to multicandidate political committees in general under the 1974 Amendments, and enlarged it for the senatorial campaign committees and the national party committees, to allow either of them to contribute $17,500 to a senate candidate, at any time during an election year. Thus, it is not a new limitation in this respect, since instead of limiting an existing right to contribute to senate candidates, it has expanded the right. Therefore, the Commission is of the view that if a senatorial campaign committee contributed $10,000 to a senate candidate prior to May 11, 1976 it could not contribute an additional $17,500 after May 11th, since any contribution it made under the existing $5,000 per election section 2608(b)(2) limitation would be charged against this limit, which the new section 441(h) merely enlarged upon. It could, however contribute an additional $7,500 to the same candidate after May 11, for any 1976 elections (assuming the national party committee made no contributions to the same candidate).

IV. CONTRIBUTIONS BY MULTIPLE POLITICAL ACTION COMMITTEES ESTABLISHED BY CORPORATIONS AND LABOR ORGANIZATIONS

The following discussion will focus on multiple political action committees (PACs) established by corporations and labor organizations; however, the Commission notes that it would apply to any organization or group of persons that establishes, finances, maintains or controls several political committees.[8]

A. *1974 Contribution Limitation.* Under the 1974 Amendments to the Act, a corporation or labor organization could establish "a separate segregated fund" for political purposes, 18 U.S.C. 610. Contributions from this fund to a Federal candidate and his authorized political committees were limited to either $1,000 or $5,000 per election, depending on whether the fund qualified as a multicandidate political committee.[9] If the corporation or labor organization established more than one political action committee and exercised any direction or control over them with respect to decisions to contribute to particular candidates, these sister PACs would have been deemed one entity and thus all contributions from such sister PACs would have been subject to a single contribution limit of either $1,000 or $5,000 as applicable, per candidate per election. For example, in Advisory Opinion 1975-45 (40 FR 53722, November 19, 1975) the Commission stated that a multicandidate political committee could establish multicandidate political committees in several states, but due to their common control they were regarded as one entity and thus subject to one contribution limit.

Since these 1974 limitations were incorporated from existing law by the 1976 Amendments, any contribution by a corporate or union political action committee made "with respect to any election for Federal office," prior to May 11, 1976, would be counted against the appropriate limitation. For example, if a corporate political action committee not qualifying as a multicandidate political committee gave $500 to a Federal candidate for his election prior to May 11, 1976 it would be limited to an additional $500 contribution after May 11th to that candidate with respect to that election.

B. *1976 Contribution Limitation.* The 1976 Amendments to the Act change the law with respect to contribution limitations of multiple PACs in the following manner. If a corporation or labor organization had established several independent PACs prior to the enactment of the 1976 Amendments, if the PACs were truly independent and no direct or indirect control was exercised over them whatsoever, they would each have had their own contribution limitations, for purposes of Federal elections. However, the 1976 Amendments included an "anti-proliferation" provision, now codified in 2 U.S.C. 441a(a)(5)(C), which provides that if a corporation or labor organization and any of its subsidiaries "establish or finance or maintain or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single separate segregated fund for purposes of the limitations provided (in section 441a(a)(1) and (2))." The statute specifically provides that any parent corporation or labor organization "and any of its subsidiaries, branches, divisions, departments, or local units" establishing more than one separate segregated fund are per se subject to a single limit. Entities falling outside those categories will be scrutinized using common control and "establish or finance or maintain" criteria. It is therefore no longer possible to have several corporate or union-established "independent" PACs; all PACs established, financed, maintained or controlled by the corporation or labor organization are now considered one entity for purposes of limitations on their contributions to Federal candidates and committees, and as such they are now all subject to a single contribution limitation.

An example of this change in the law is the following: If a corporation established several PACs prior to May 11, 1976, and one of the PACs was not in any way controlled or directed by the parent PAC and was therefore independent, it would have been entitled to its own separate contribution limitation. Therefore, such a PAC could have given $1,000 to a candidate prior to May 11th, and this would not have affected the total contribution limit from the other PACs established by the same corporation. In addition, this prior contribution from the independent PAC would not be charged against the new single limitation under the 1976 Amendments on contributions from all PACs "established or financed or maintained or controlled" by the same corporation. However, if this PAC were in any way controlled by the parent PAC, its contribution of $1,000, made before May 11, 1976, would be charged against the single contribution limit applicable to all such PACs after May 11th, since the control criterion was part of the existing law incorporated into the 1976 Amendments.

V. PERSONAL EXPENDITURES BY PRESIDENTIAL CANDIDATES ACCEPTING PUBLIC FINANCING

The 1976 Amendments contained a $50,000 limitation on personal expenditures by a presidential candidate during his or her campaign for nomination, and campaign for election, 26 U.S.C. 9035(a) and 9004(d). Pursuant to *Buckley* v. *Valeo*, 424 U.S. 1 (1976), which held campaign expenditures fell within the protection of the First Amendment, the 1976 expenditure limitation was made applicable only to those presidential candidates accepting public financing. Although the $50,000 limitation had been part of the 1974 Amendments to the Act as 18 U.S.C. 608(a)(1)(A), it was declared unconstitutional by the Supreme Court in Buckley. Congress therefore added a new $50,000 expenditure limitation along constitutional guidelines, and provided that any such personal expenditures "made by an individual after January 29, 1976, and before the date of the enactment of this Act (May 11, 1976) shall not be taken into account."[10]

Thus, a Presidential candidate accepting public financing, who had expended

[6] $5,000 per election, from two donors. However, since runoffs occur infrequently, the practical total was $20,000.

[7] See discussion under I above.

[8] See 2 U.S.C. 441a(a)(5).

[9] These were 1974 limitations, contained in 18 U.S.C. 608(b). They were reenacted by the 1976 Amendments, and are now codified in 2 U.S.C. 441a.

[10] § 301(b) and § 305(d) of the 1976 Amendments. This language is now codified in 26 U.S.C. 9004(d) and 9035(a).

personal funds for his or her campaign for nomination, or for election during the period between the Buckley decision and the enactment of the 1976 Amendments, would not count these expenditures against his new $50,000 personal expenditure limitations. Any expenditure made before January 30th and after May 10th would count against these 1976 limitations.

VI. ACCEPTANCE OF HONORARIA BY PUBLIC OFFICIALS AND EMPLOYEES

Section 328 of the 1976 Amendments increased the amount of honoraria Federal officials and employees could accept. The $1,000 limitation per appearance, speech or article was increased to $2,000, and the annual aggregate limitation was increased from $15,000 to $25,000.[11]

The Commission believes Congress intended, for purposes of honoraria limitations in 1976, that the term "calendar year" should have its normal meaning. The Conference Report specifically limited the shortened year for 1976 to the "contribution limitations imposed by section 320;" the honoraria provision is in section 328. Also, there was a statutory exclusion for expenditures by presidential candidates during the period between the Buckley decision and the enactment of the 1976 Amendments. There was no such time exclusion provided, in either the language of the Conference Report, or the statute, for the new honoraria provision. Therefore, the Commission concludes that the new 1976 honoraria limitations of $2,000 per appearance, speech or article and $25,000 annually would allow a Federal official or employee to accept a maximum amount of $25,000 during 1976.

An example: Between January 1 and May 10, 1976, an individual could have accepted the total $15,000 of his or her annual honoraria then permissible. The 1976 Amendments would allow a further acceptance by the individual between May 11, and December 31, 1976 of an additional $10,000, in increments of $2,000 or less. If no honorarium was accepted before May 11th, the individual could accept the full $25,000 between May 11 and December 31, 1976.

[FR Doc.76-30312 Filed 10-15-76;8:45 am]

[Notice 1976-57]

MEMBERSHIP ORGANIZATIONS, INCLUDING LABOR ORGANIZATIONS, AND CORPORATIONS OF REPORTING REQUIREMENTS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED

Filing of FEC Form 7

Section 441b of the Federal Election Campaign Act (formerly 18 U.S.C. 610) allows "communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject," including the express advocacy of the election or defeat of any Federal candidate. However, the 1976 Amendments to the Federal Election Campaign Act of 1971 (effective May 11, 1976) contain a requirement (section 431(f)(4)(C) of Title 2) that the costs of such communications be reported to the Federal Election Commission under certain circumstances. This section states in pertinent part:

"* * * the costs incurred by a membership organization, including a labor organization or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than express advocacy of the election or defeat of a clearly identified candidate) shall, if these costs exceed $2,000 per election, be reported to the Commission."

The Commission has developed a special reporting form (FEC Form 7) to be used by corporations, unions, and other membership organizations in reporting the costs of internal communications under 2 U.S.C. 431(f)(4)(C).

Each corporation and each incorporated subsidiary, and each state and each local labor organization has a separate $2,000 threshold per election and need not report until the $2,000 per election threshold is reached.

"Election" as defined by this provision of the Federal Election Campaign Act of 1971, as amended, means two separate processes in a calendar year to each of which the $2,000 threshold described above applies separately. The first process is composed of all primary elections for Federal office, wherever held. The second is the general election.

If the corporation or labor organization expends more than $2,000 per election, all costs, including the first $2,000 per election, must be reported.

Reports filed with the Commission pursuant to this notice shall be filed on FEC Form 7 or by letter containing the following information:

1. Name and address of the corporation or organization reporting.
2. A list of communications made, stating for each communication—
   a. The type of communication, i.e., direct mail, telephone bank, telegram, etc.
   b. The class or category of persons communicated with, i.e., stockholders, executive personnel, union members, etc., for each communication.
   c. The date, or inclusive dates, the communication was made.
   d. The name(s) of candidates and office sought, indicating whether the communication was made in support of or in opposition to such candidate(s) whether for primary or general election and the total amount expended for each candidate supported. Generally, the total cost of a communication which advocates the election or defeat of more than one candidate should be allocated to and reported for each candidate in equal proportions. If, however, one or more candidates are emphasized, the cost should be allocated and reported to reflect the benefit reasonable expected to be derived by each candidate.
   e. The cost of the communication.
3. The total cost of all communications reported.
4. The name, title and signature of the person designated by the corporation or organization as responsible for filing such reports.

Reports of internal communications with respect to the 1976 general election are due:

October 23, 1976—covering from May 11th through October 18, 1976. This is the 10th day pre-election report.

December 22, 1976—covering from October 19th through November 2, 1976. This is the 30 day post-election report.

NOTE.—The above reporting requirements are not applicable to organizations which are "political committees" as defined by 2 U.S.C. 431(c).

For purposes of interpreting these provisions of law the Commission's proposed regulations provide the following definitions of terms:

(i) "Labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) "Stockholders" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(iv) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization persons who are currently satisfying the requirements for membership in a local, national or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) "Election" means two separate processes in a calendar year to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office wherever. The second is the general election.

(vi) "Corporation" means any separately incorporated entity, whether or not affiliated.

Dated: October 8, 1976.

VERNON W. THOMSON,
Chairman, Federal Election Commission.

[11] Section 328 is now codified in 2 U.S.C. 441i.

FEC FORM 7
SEPTEMBER 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

REPORT OF COMMUNICATION COSTS BY CORPORATIONS AND MEMBERSHIP ORGANIZATIONS
(See Reverse Side)

1. (a) NAME OF ORGANIZATION

(b) ADDRESS (Number and Street)

(c) CITY, STATE, AND ZIP CODE

2. IDENTIFICATION NUMBER (Assigned by FEC)

3. TYPE OF ORGANIZATION (Check Appropriate Box)

___ Labor Organization
___ Corporation
___ Trade Association
___ Other Membership Organization
___ Other _____ (Specify)

4. TYPE OF REPORT (Check One):

(a) ___ October 23, 1976 (ten day pre-general election)

(b) ___ December 2, 1976 (30 day post-general election)

SUMMARY OF EXPENDITURES

Type of Communication	Class or Category Communicated With	Date(s) of Communication	Check One		Identify Candidate, Office Sought, District and State, and Whether For Primary or General Election	Cost of Communication (Per Candidate)
			Support	Oppose		
___ Direct Mail ___ Telephone ___ Telegram ___ Other: (Specify)	___ Executive/ Administrative Personnel ___ Stockholders ___ Members ___ Employees					
___ Direct Mail ___ Telephone ___ Telegram ___ Other: (Specify)	___ Executive/ Administrative Personnel ___ Stockholders ___ Members ___ Employees					

(NOTE: For additional communications attach separate sheets containing the same information as above.)

TOTAL EXPENDITURES FOR COMMUNICATIONS THIS PERIOD $ _____

I certify that I have examined this report, and to the best of my knowledge and belief it is true, correct and complete.

Type or print name _____ Signature of person designated to sign this report _____ Date _____

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this report to the penalties of 2 U.S.C. 437g or 437j.

INFORMATION CONCERNING FEC FORM 7

Section 441b of the Federal Election Campaign Act (formerly 18 U.S.C. 610) allows "communications by a corporation to its stockholders and executive or administrative personnel and their families or by a labor organization to its members and their families on any subject," including the express advocacy of the election or defeat of any Federal candidate. However, the 1976 Amendments to the Federal Election Campaign Act of 1971 (effective May 11, 1976) contain a requirement (Section 431(f)(4)(C)) that the costs of such communications be reported to the Federal Election Commission under certain circumstances. This section states in pertinent part:

. . .the costs incurred by a membership organization, including a labor organization or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission.

For purposes of interpreting these provisions of law the Commission's proposed regulations provide the following definitions of terms:

(i) "Labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) "Stockholder" means a person who has vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) "Executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policy-making, managerial, professional, or supervisory responsibilities.

(iv) "Members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) "Election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, wherever held; the second process is comprised of all general elections for Federal office, wherever held.

(vi) "Corporation" means any separately incorporated entity, whether or not affiliated.

ALLOCATION AND REPORTING OF COST FOR COMMUNICATIONS WHICH ADVOCATE THE ELECTION OR DEFEAT OF MORE THAN ONE CANDIDATE FOR FEDERAL OFFICE

Generally, the total cost of a communication which advocates the election or defeat of more than one candidate should be allocated to and reported for each candidate in equal proportions. If, however, one or more candidates are emphasized, the cost should be allocated and reported to reflect the benefit reasonably expected to be derived by each candidate.

[FR Doc.76-30313 Filed 10-15-76;8:45 am]

federal register

MONDAY, OCTOBER 18, 1976

PART III:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

NATIONAL DIFFUSION NETWORK PROGRAM

Elementary and Secondary Contract Awards

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 193]

NATIONAL DIFFUSION NETWORK PROGRAM

Notice of Proposed Rulemaking

Pursuant to the authority contained in section 422 of the General Education Provisions Act (20 U.S.C. 1231a), notice is hereby given that the Commissioner of Education proposes to issue regulations governing contract awards under the National Diffusion Network Program which has the purpose of promoting widespread installation in local school systems of already developed, rigorously evaluated, exemplary educational programs at the elementary and secondary school levels.

The National Diffusion Network is a delivery system designed to disseminate information and provide technical assistance to local school systems and public and private elementary and secondary schools in order that they may adopt exemplary elementary and secondary education programs, products, and practices approved for dissemination by the Joint Dissemination Review Panel (JDRP) of the Education Division of the Department of Health, Education, and Welfare. The JDRP serves as a quality control mechanism with respect to educational programs, products, and practices proposed for dissemination by officers or employees of the Education Division. In the course of carrying out their program responsibilities, these officers or employees identify programs, developed with Federal funds, which they believe to be sufficiently exemplary to be disseminated in order that they may be replicated or otherwise used in other settings. The JDRP reviews these and approves for dissemination by agencies of the Education Division those programs for which there is adequate evidence that they have been effective.

These JDRP approved programs which are at the elementary and/or secondary levels make up the pool of exemplary programs, products, or practices disseminated by the National Diffusion Network for widespread installation in local school districts and in nonprofit private schools. The Network is designed to carry out this purpose through two approaches.

(1) *Developer-Demonstrator Projects* which will be awarded to the local educational agencies and other public and private non-profit agencies and institutions which developed, with Federal funds, exemplary programs, products, or practices approved for dissemination by the JDRP. The contract recipient will receive funds:

(a) To develop materials about the approved program,

(b) To refine, produce, and package instructional, management, and training materials for use in replicating the program;

(c) To share these materials and other information regarding the program, in conjunction with recipients of "Facilitator" contracts described below, with local educational agencies and private, nonprofit elementary and secondary schools which consider replicating the program; and

(d) To provide training and technical assistance to these potential adopters of the program and to local educational agencies and private schools which have installed and are using the program.

(2) *Facilitator projects,* each of which will be awarded to one or more public or private agencies or organizations (including State educational agencies and local educational agencies) within a State or combination of adjoining States. The contract recipient will receive funds:

(a) To engage in widespread dissemination of information to as many local school systems and private nonprofit elementary and secondary schools as possible within its State or larger area in order to acquaint these systems and schools with the exemplary programs which have been carried out by the recipients of Developer-Demonstrator awards;

(b) To provide technical assistance to interested local educational agencies and elementary and secondary schools within its State or larger area in considering how these programs might relate to and benefit their educational needs and program activities; and

(c) To provide for necessary linkages and arrangements between local educational agencies and elementary and secondary schools which decide to install a Network program and the appropriate Developer-Demonstrator.

As the title of the Network suggests, the National Diffusion Network is designed to promote installation of exemplary programs approved by the JDRP throughout the Nation. Developer-Demonstrator Projects will be designed to provide information, training, and technical assistance in all parts of the Nation. While each Facilitator project will concern itself with schools in a particular State or otherwise limited geographic region cutting across contiguous States, it will be a purpose of the Network program to award a substantial number of these contracts which will collectively cover all or most of the Nation, subject of course to the quality of proposals received and limitations in available funds. It is not expected that it will be possible to cover all parts of the Nation under the Facilitator projects in the initial year of funding under this part.

National Diffusion Network projects operated during FY 1976 with funds awarded late in FY 1975 pursuant to the authority of section 306 of the Elementary and Secondary Education Act. Because the section 306, ESEA authorization has since expired, funds have been appropriated in Fiscal Year 1977 for the Network pursuant to the authority of section 422 of the General Education Provisions Act (GEPA), an authority vested in the Commissioner of Education to disseminate information about federally supported education programs. Whereas section 306, ESEA authorized grant awards by the Commissioner, section 422 of the GEPA authorizes only procurement contracts. For this reason, awards under this part will be by way of procurement contracts in accordance with the procedures and the requirements of Federal and HEW procurement regulations (41 CFR Chapters 1 and 3). This part sets forth the general requirements and standards for the program.

Prior recipients of grants under the Network may compete for a contract award pursuant to this part to continue Network activities. Their proposals will be reviewed on the same basis, and under the same evaluation criteria, as a proposal from an agency or institution not previously funded under the Network.

The development of the National Diffusion Network Program has benefited from public participation in the decision-making process. During the past three years, State and local educational personnel, a representative group of Developer-Demonstrator and Facilitator project personnel, and other professionals in the area of dissemination have assisted in developing the National Diffusion Network and have participated in the implementation and operation of the Network.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed regulation to the National Diffusion Network Program, U.S. Office of Education, 400 Maryland Avenue, S.W., (Room 3616, ROB-3.) Washington, D.C. 20202. Written responses to this notice may be inspected by the public at the above office Monday through Friday between 8:30 a.m. and 4:00 p.m.

All comments, suggestions, or objections to be considered must be received not later than on or before November 17, 1976. Although it is the policy of the Department to provide a minimum 45 day period for public comment whenever possible, a shorter comment period is provided in this instance due to severe time constraints for implementation of the program. Existing projects will expire December 31, 1976. While there is no guarantee that these projects will be funded under this part, it is possible that many such projects will successfully compete for funding. However, unless the contract awards can be made by December 31, 1976, these projects will all lapse, with possible serious disruption to staff, organization, and the continuity of project activities.

For the same reason, public hearings on the proposed rule are not planned. It is expected that the opportunity for written comments will constitute an adequate opportunity for public response to the proposed regulation, particularly given the non-controversial nature of its contents. In any event, any commenter who believes that public hearings or specific meetings are called for, either before or subsequent to publication of the final regulation, is invited to include an explanation of these views in the written comments. It is expected that the final regulation will be issued as an interim final rule in the sense that ad-

ditional public comments on the regulation and its practical operation will be invited a year after its publication.

Oral inquiries concerning the proposed regulation may be directed to: Lee E. Wickline, Director, Division of Educational Replication, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 3616, ROB-3, Washington, D.C. 20202. Telephone: (202) 245-2257.

It is hereby certified that this proposed rule has been screened pursuant to Executive Order No. 11821, and does not require an Inflationary Impact Evaluation.

(Catalog of Federal Domestic Assistance No. 13.754, National Diffusion Network-Dissemination.)

Dated: October 12, 1976.

ROBERT R. WHEELER,
Acting U.S. Commissioner of Education.

Approved: October 12, 1976.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

It is proposed that Title 45 of the Code of Federal Regulations be amended by adding a new Part 193 to read as follows:

PART 193—NATIONAL DIFFUSION NETWORK PROGRAM

Subpart A—General Provisions

Sec.
193.1 Scope and purpose.
193.2 Definitions.
193.3 Award procedures.
193.4–193.10 [Reserved]

Subpart B—Developer-Demonstrator Projects

193.11 Eligibility for awards.
193.12 Project activities.
193.13 Proposal requirements.
193.14 Funding criteria.
193.15–193.20 [Reserved]

Subpart C—Facilitator Projects

193.21 Eligibility for awards.
193.22 Project activities.
193.23 Proposal requirements.
193.24 Funding criteria.

AUTHORITY: Sec. 422(a) of the General Education Provisions Act (20 U.S.C. 1231a); Pub. L. 94-439 (1976); H. R. Rep. No. 94-1219 at 67 (1976).

Subpart A—General Provisions

§ 193.1 Scope and purpose.

(a) *Scope.* The regulations in this part govern contract awards with funds appropriated for purposes of the National Diffusion Network pursuant to section 422(a) of the General Education Provisions Act. Contract awards under this part are subject to applicable provisions contained in 41 CFR Chapters 1 and 3.

(b) *Purpose.* The purpose of this part is to provide for the award of contracts to public and private, nonprofit educational agencies, organizations, or institutions to promote the widespread installation in public and private elementary and secondary schools of rigorously evaluated, exemplary educational programs, products, or practices already developed with Federal support. The program will be designed to acquaint elementary and secondary schools throughout the Nation with exemplary, Federally funded programs at the elementary and secondary levels and, if the schools decide to replicate these programs, to assist them in doing so through the provision of information, technical assistance, and training.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.2 Definitions.

The following definitions shall apply to the terms used in this part:

(a) "Elementary school" means a day or residential school which provides elementary education, as determined under State law.

(20 U.S.C. 881(c).)

(b) "Joint Dissemination Review Panel" or "JDRP" refers to the panel of that name within the Education Division of the Department of Health, Education, and Welfare, and composed of employees of the Office of Education, the National Institute of Education, and the Office of the Assistant Secretary for Education, which reviews educational programs, products, and practices submitted to it by employees of the Education Division for effectiveness and approves them for national dissemination.

(20 U.S.C. 1231a, 1221b, 1221c, 1221e.)

(c) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(20 U.S.C. 881(f).)

(d) "Secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(20 U.S.C. 881(h).)

(e) "State" means, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 881(j).)

§ 193.3 Award procedures.

Awards under this part shall be in the form of competitive contracts and shall be governed by the applicable provisions of Federal and Department procurement regulations contained in 41 CFR Chapters 1 and 3.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§§ 193.4–193.10 [Reserved]

Subpart B—Developer-Demonstrator Projects

§ 193.11 Eligibility for awards.

A proposal for a Developer-Demonstrator project may be submitted by any public or private, nonprofit educational institution or organization that has developed, with Federal support, an exemplary educational program, product, or practice which has been previously approved for dissemination by the Joint Dissemination Review Panel (JDRP).

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.12 Project activities.

A Developer-Demonstrator Project contract will be awarded for the purpose of carrying out the following activities:

(a) Disseminating information on a nationwide basis, in conjunction with recipients of Facilitator Awards under Subpart C, about the exemplary educational program previously developed by the contractor and approved by the JDRP;

(b) Developing materials about the approved program to be used by recipients of Facilitator projects under Subpart C, local educational agencies, and private, nonprofit elementary and secondary schools before a local educational agency or school decides to adopt the approved program;

(c) Refining, producing, and packaging instructional, management, and training materials related to the approved program for use by local educational agencies and private, nonprofit elementary and secondary schools after they have decided to adopt the program;

(d) Providing training and technical assistance to local educational agencies and private, nonprofit elementary and secondary schools which decide to adopt the approved program in planning for, initiating, and carrying out the program; and

(e) Participating in workshops and meetings arranged for by the Commissioner to share information among Network contractors and provide technical assistance to them.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 1129 at 67 (1976).)

§ 193.13 Proposal requirements.

A proposal for a Developer-Demonstrator contract award under this subpart must meet the following requirements, in addition to such other requirements as may be set forth in the applicable request for contract proposals to be published in "Commerce Business Daily." The proposal must:

(a) Identify and describe the specific program, product, or practice to be disseminated and document that the program, product, or practice was developed with Federal support and has been approved for dissemination by the Joint Dissemination Review Panel;

(b) Provide for the carrying out of all of the project activities described in

§ 193.12 and describe the strategies to be used in carrying out these activities;

(c) Contain sufficient information about the offeror to enable the Commissioner to determine its qualification for receiving an award, including a description of any prior dissemination activities by the offeror of the sort proposed and information on any evaluation of these activities;

(d) Set forth a management and an evaluation plan for the project;

(e) Document that the program, product, or practice remains in current use at the site at which it was developed and explain the manner and nature of the current use;

(f) Provide information responding to each of the funding criteria in § 193.14.

(20 U.S.C. 1231a); Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.14 Funding criteria.

In evaluating proposals for Developer-Demonstrator Projects, the Commissioner will apply the following criteria:

(a) *High quality.* (17 points). The extent the proposed project is designed to achieve high quality (beyond meeting minimum requirements) with respect to each of the project activities described in § 193.12;

(b) *Management.* (13 points). The quality of the management and evaluation plans described in the proposal;

(c) *Access to developer site.* (9 points). The extent the proposal provides for access of potential adopters who may wish to visit the ongoing project at the original site;

(d) *Personnel.* (18 points). Adequacy of qualifications and experience of personnel designated to carry out the proposed project;

(e) *Facilities and resources.* (9 points). Adequacy of facilities and other resources;

(f) *Innovative strategies.* (9 points). The extent the proposal provides for innovative dissemination strategies which may be worthy of replication by other Network projects; and

(g) *Prior experience.* (23 points). Prior experience of the offeror in carrying out dissemination activities of the sort provided for under the Network program.

(20 U.S.C. 1231a); Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§§ 193.15-193.20 [Reserved]

Subpart C—Facilitator Projects

§ 193.21 Eligibility for awards.

A proposal for a Facilitator Project may be submitted by a local educational agency, a State educational agency, or other public or private, nonprofit educational agency or institution located in the State or region to be served.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.22 Project activities.

A Facilitator Project contract will be awarded for carrying out the following activities directed to local educational agencies and private, nonprofit elementary and secondary schools in the State or combination of adjoining States to be served under the project:

(a) Informing local educational agencies and private schools about exemplary programs in the National Diffusion Network (i.e., those programs which have been carried out by the recipients of Developer-Demonstrator awards);

(b) Assisting local educational agencies and private schools in determining the appropriateness of National Diffusion Network programs for their schools in terms of their assessed needs;

(c) Arranging for Developer-Demonstrators to train staff members in public and private schools which want to install one or more of the Network programs;

(d) Arranging for potential adopters to visit Demonstrator sites when appropriate;

(e) Coordinating the provision of the services described in paragraphs (a) through (d) of this section to local agencies and schools on the most cost-effective basis; and

(f) Participating in workshops and meetings arranged for by the Commissioner to share information among Network contractors and provide technical assistance to them.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.23 Proposal requirements.

A proposal for a Facilitator contract under this subpart must meet the following requirements, in addition to such other requirements as may be set forth in the applicable request for contract proposals to be published in "Commerce Business Daily." The proposal must:

(a) Identify the State or combination of adjacent States to be served under the project;

(b) Provide for the carrying out of all of the project activities described in § 193.22 and describe the strategies to be used in carrying out these activities;

(c) Document, by attaching to the proposal a letter from each Chief State School Officer or through other appropriate documentation, that the Chief State School Officer for each State to be served by the project has been consulted in the development of the proposal;

(d) Contain sufficient information about the offeror to enable the Commissioner to determine its qualifications for receiving an award, including a description of any prior dissemination activities by the offeror of the sort proposed and information on any evaluation of these activities;

(e) Set forth a management and an evaluation design for the project;

(f) Provide information responding to each of the funding criteria in § 193.24.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

§ 193.24 Funding criteria.

In evaluating proposals for Facilitator Projects, the Commissioner will apply the following criteria:

(a) *High quality.* (17 points). The extent the proposed project is designed to achieve high quality (beyond meeting minimum requirements) with respect to each of the project activities described in § 193.22;

(b) *Management and evaluation.* (13 points). The quality of the management and evaluation plans described by the proposal;

(c) *Personnel.* (18 points). Adequacy of qualifications and experience of personnel designated to carry out the proposed project;

(d) *Facilities and resources.* (9 points). Adequacy of facilities and other resources;

(e) *Innovation.* (9 points). The extent the proposal provides for innovative dissemination strategies which may be worthy of replication by other Facilitator projects;

(f) *Prior experience.* (23 points). Prior experience of the offeror in carrying out dissemination activities of the sort provided for under the Network program;

(g) *Consultation during proposal development.* (12 points). The extent the offeror has, in the development of the proposal, consulted with State and local educational agencies, private elementary and secondary schools, and other educational resources in the State or States to be served by the project;

(h) *Consultation during project operation.* (12 points). The extent the proposal provides for consultation by the contractor, in the carrying out of the project, with State and local educational agencies, private elementary and secondary schools, and other educational resources in the State or States to be served by the project.

(20 U.S.C. 1231a; Pub. L. 94-439 (1976); H.R. Rep. No. 94-1219 at 67 (1976).)

[FR Doc.76-30436 Filed 10-15-76;8:45 am]

federal register

MONDAY, OCTOBER 18, 1976

PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Metropolitan and Nonmetropolitan Discretionary Grants

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-76-292]

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Applications and Criteria for Discretionary Grants

On August 13, 1976, the Department of Housing and Urban Development (HUD) published in the FEDERAL REGISTER (41 FR 34301) a notice of proposed rulemaking regarding applications and criteria for general purpose discretionary grants to metropolitan and nonmetropolitan areas and certain conforming technical amendments under the community development block grant program under Title I of the Housing and Community Development Act of 1974. Interested persons were given until September 14, 1976, to submit written comments. All comments with respect to the proposed rulemaking were given due consideration.

As a result of the approximately ninety letters of comment received, the following changes were made:

1. A number of comments requested clarification of data sources to be used by HUD to determine the demographic characteristics of applicants in regard to the selective criteria on housing conditions and poverty set forth in § 570.402 (c) (2) (i) and (ii). Accordingly, paragraph (b) of § 570.400 has been revised to indicate that the data to be used are the materials HUD acquires from the U.S. Bureau of the Census for use in allocating entitlement grants under this Part for the same fiscal year appropriation.

Section 570.400(b) (2) has been revised to provide an exception regarding the data used in § 570.402(c) (2) (i) and (ii). HUD Regional Offices will use updated data supplied by States for the nonmetropolitan areas of the State or updated data supplied by States or area wide planning organizations for metropolitan areas which meet certain requirements. The requirements are that the data are available for all potential applicants, can be verified by HUD, and are submitted to HUD in a usable form prior to November 1, 1976 for use in Fiscal Year 1977.

2. Several comments requested clarification whether federally recognized Indian tribes are subject to the OMB Circular A-95 review requirements. Paragraph (d) (1) of § 570.400 has been clarified to indicate that Indian tribes are exempt from the A-95 requirements of this subpart, including those set forth in § 570.402.

3. Paragraph (f) (1) (i) of § 570.400 has been revised to indicate that an application for discretionary funds must be either postmarked or received by the appropriate HUD field office on or before the final date established by HUD for the receipt of applications.

4. Certain comments addressed the matter of program amendments and an apparent conflict of requirements under §§ 570.400 and 570.402. Accordingly, paragraph (g) of § 570.400 has been revised to indicate that program amendments shall normally be subject to the requirements of § 570.400(g) (1), with the exception that recipients under § 570.402 requesting program amendments to approved general purpose discretionary grants shall be governed by those requirements set forth in § 570.402(f).

5. A number of comments addressed the scope of the preapplication. Paragraph (b) (2) of § 570.402 has been revised to outline more explicitly the preapplication submission requirements. The preapplication will include Standard Form 424, as prescribed by Federal Management Circular 74-7; a program narrative statement consisting of a brief description of the applicant's community development needs and objectives to be served by the proposed activities, a description of the proposed activities and estimate of the cost of each activity (HUD will normally not approve activities that will require more than two years to complete), and information regarding each of the selection criteria set forth in § 570.402(c) (2) (iii)-(vi); and certain attachments including the citizen participation certification for preapplications, a map of the applicant's jurisdiction indicating census tracts and/or enumeration districts, location of proposed activities, concentrations of minority groups, and concentrations of lower-income persons; a status report of prior assistance under this part, and a statement regarding actions taken by the applicant to implement a HUD approved housing assistance plan applicable to its jurisdiction.

Further, § 570.402(b) (2) (iii) (C) now specifies that an applicant which has received prior assistance under this part shall submit a status report for all prior assistance addressing the items prescribed in § 570.402(c) (1) (i), which is the threshold requirement pertaining to the continuing capacity of the applicant to carry out the program. The applicant may submit the Grantee Performance Report pursuant to § 570.400(h) in lieu of the status report. Applicants which have not received prior assistance are not required to submit a status report and are not subject to the threshold requirement.

Section 570.402(b) (2) (iii) (D) requires that an applicant shall attach a statement regarding local actions to carry out a HUD approved housing assistance plan applicable to its jurisdiction. HUD will use this information to make a judgment about compliance with the threshold requirement regarding the implementation of a HUD approved housing assistance plan as set forth in § 570.402(c) (1) (ii). Applicants which have not had a HUD approved housing assistance plan applicable to their jurisdiction are not required to submit this statement and are not subject to the threshold requirement.

6. A great number of comments addressed the timing for submission of preapplications. Section 570.402(b) (3) has been revised to indicate that HUD will announce the submission dates through publication of a Notice in the FEDERAL REGISTER. Such a Notice is being published concurrently with the promulgation of these regulations. For Fiscal Year 1977, the dates for submission of preapplications for nonmetropolitan areas will be November 15, 1976-January 7, 1977. The dates for submission of preapplications for metropolitan areas will be January 17, 1977-February 18, 1977. The dates established for nonmetropolitan areas were extended at the request of many commentors.

7. There were many comments regarding the proposed modified procedure for A-95 review of preapplications. While a number of comments preferred a thirty day A-95 review period prior to submission of preapplications, many others supported the proposed concept of concurrent submission of preapplications to the HUD field office and the A-95 clearinghouses. HUD has therefore decided to adopt the concurrent submission procedure with certain changes. Accordingly, § 570.402(b) (4) (i) has been revised to indicate that one copy each of the preapplication shall be forwarded to the State A-95 clearinghouse and to the areawide clearinghouse either prior to or concurrent with the submission of the preapplication to HUD.

A number of comments requested clarification regarding use of A-95 review comments by HUD in the preapplication process. Section 570.402(b) (4) (ii) has been revised to indicate that the A-95 comments are to be forwarded both to the applicant and to the appropriate HUD field office. The clearinghouses will have thirty days for review and comment and HUD will consider their comments prior to assigning a final rating to a preapplication or, when no clearinghouse comments are received by the HUD field office, HUD shall not assign a final rating to a preapplication until thirty days after the deadline date for submission of the preapplication.

Clearinghouses are requested to address their A-95 comments to the threshold factors set forth in § 570.402(c) (1) and the criteria for selection set forth in § 570.402(c) (2) as well as the requirements of Part I of Attachment A of OMB Circular A-95, item 5. Clearinghouses are further requested to place emphasis in review on consistency among State, areawide, and local plans and compliance with environmental and civil rights laws.

8. Several comments requested further explanation regarding the use of maximum grants and an authority for the establishment of minimum grants. Accordingly, § 570.402(b) (5) has been revised to indicate that the Secretary may, prior to the earliest date for submission of preapplications, establish a single maximum grant amount and minimum grant amount for all applicants in the nonmetropolitan areas of a State and single maximum grant amounts and minimum grant amounts may be established for all applicants in each metropolitan area. These amounts may differ

based upon the amount of funds available in each area. It is further specified that these amounts must be established prior to the earliest date for submission and may be waived in exceptional circumstances. HUD field offices shall inform applicants of the maximum and minimum grant amounts as soon as possible.

Several comments noted that in the past maximum grant amounts were established on a population or per capita basis. This is not permitted under this revision as only one maximum grant amount may be established for all applicants in a given area. While applicants may apply for assistance up to the maximum grant amount it should be noted that because of the demand for assistance, HUD may be unable to invite a full application for the amount requested by the applicant. Under this circumstance, the applicant, and not HUD, will set the priority among activities qualified for funding.

9. Several comments requested clarification regarding the procedure for acceptance of a preapplication by HUD. Accordingly, § 570.402(b)(6) has been added and indicates that a HUD field office will accept a preapplication for review if it is either postmarked or received on or before the established deadline date and the required contents of the preapplication set forth in § 570.402(b)(2) are complete.

10. A number of comments were received regarding the establishment of a review and rating system by HUD regional offices. Section 570.402(c) has been clarified to indicate that each HUD regional office will establish a review and rating system pursuant to the criteria for selection set forth in § 570.402(c)(2). The discretion in percentage of points to be assigned for each selection criterion has been deleted and the criterion regarding commitment of other resources will be mandatory in all rating systems.

Several comments indicated that State agencies should be directly involved in the development of HUD review and rating systems. Accordingly, the A-95 review process, which is an appropriate vehicle for State input, has been revised and strengthened. In addition, the criterion for selection regarding the commitment of other resources has been specifically designed to provide recognition of coordinated efforts between states and units of local government.

11. A number of comments were received about the threshold requirement regarding a determination of the continuing capacity of prior recipients to carry out the activities that are proposed in their preapplications. In particular, commentors expressed concern that applicants receiving approval for assistance under this part for the first time in Fiscal Year 1976 would be expected to have evidenced a similar level of performance as those recipients which have had grants for a longer period. Section 570.402(c)(1)(i) has been revised to indicate that the length of time since approval of a grant shall be considered. The purpose of this threshold is to insure that recipients can utilize the funds on a timely basis. If a recipient can not utilize the funds in a timely manner, then HUD policy is that the many other applicants that desire funds and can put them to more immediate use should be given the opportunity to do so. The statute clearly intends that this assistance is to be used expeditiously.

Further, in response to a number of comments, the threshold is no longer related to performance standards. Rather, HUD shall make a determination whether a recipient of a prior grant that is applying for additional assistance has a continuing capacity to carry out the proposed activities in a timely manner. The determination shall be based upon the length of time since approval of the assistance, the nature of the activities that were undertaken, and progress achieved by the recipient toward completion of approved activities. HUD will not establish a minimum percentage of achievement, but rather the progress of the applicant shall be compared with the progress achieved by other recipients of comparable size and experience which have conducted similar activities.

12. A number of comments were received regarding the threshold factor which addresses local actions to provide assisted housing in accordance with any HUD approved housing assistance plan applicable to an applicant's jurisdiction. Section 570.402(c)(1)(ii) has been revised to indicate that the threshold factor considers whether an applicant has taken appropriate local actions within its control to implement the housing assistance plan. HUD shall consider particularly whether assisted housing resources were available to the applicant and whether the applicant took actions within its control which would block or otherwise impede the timely provision of available resources.

The actions of an applicant which previously participated as a part of an urban county and has subsequently withdrawn, shall be considered with regard to provision of assisted housing in accordance with the HUD approved housing assistance plan for the urban county applicable to the applicant's jurisdiction. Applicants which have not been subject to a HUD approved housing assistance plan are not subject to the threshold determination.

13. A number of comments requested clarification of the threshold regarding eligible activities. HUD has determined that § 570.402(c)(1)(iii) which set forth the threshold is redundant and will be deleted. However, HUD field offices shall continue to make eligibility determinations regarding all proposed activities pursuant to Subpart C as a part of their routine review of preapplications.

14. Several comments were received with regard to the criterion for selection pertaining to substandard housing conditions. The comments suggested several other factors be considered as a part of substandard housing conditions. HUD is unable to accept these recommendations because of the lack of universally available data sources.

15. Several comments requested clarification of the terms "exclusive, principal or incidental" benefit to low- or moderate-income families. Section 570.402(c)(2)(iii) has been revised to provide examples of the three levels of benefit. Exclusive benefit is one hundred percent of those served by an activity. Primary benefit is fifty-one percent or more of those served by an activity. Incidental benefit is less than fifty-one percent of those served by an activity.

16. A number of comments were addressed to the criterion regarding low- or moderate-income housing stock. Section 570.402(c)(2)(iv) has been revised to eliminate the reference to the term "infrastructure." The amount of consideration provided pursuant to this criterion shall be measured by the extent to which an activity or program of activities is necessary to support the expansion or conservation of low- or moderate-income housing stock. Several examples of activities which are necessary to support these purposes are cited. Other examples of the types of activities which are in support of housing may be found in the regulations governing new construction under the section 8 Housing Assistance Program set forth in 24 CFR 880.112, Site and Neighborhood Standards.

Activities which are beneficial to the expansion or conservation of the low- or moderate-income housing stock, but do not fall within the scope of a necessary activity, will receive a lesser degree of consideration.

17. Several comments requested a definition of a "serious threat" to public health or safety. Section 570.402(c)(2)(v) has been expanded to provide a definition of "serious threat." A serious threat to public health or safety is one which is verified with an appropriate authority and requires prompt resolution. Prompt resolution means that should the threat not be rectified within the next one year period, there is a high probability of disease or injury resulting directly from the condition. An example is cited of a water system that is contaminated to such an extent that cases of disease will likely result within a one year period.

18. A number of comments were received addressing the criterion regarding the commitment of other Federal or State resources. Section 570.402(c)(2)(vi) has been revised to delete the option of the Regional Administrator. This criterion will be included in all rating systems.

19. Several other comments were made regarding the purpose of the criterion relating to provision of other resources. The purpose of the criterion is to benefit not solely those applicants with the ability to obtain other assistance. Section 570.402(c)(2)(vi) has been further revised to stipulate that this criterion encompasses an activity or program of activities that demonstrate a firm commitment of other Federal or State resources which, along with the assistance provided under this Subpart, are required for the completion of the proposed activity. For example, an applicant would

fall within the purposes of this criterion if it proposed improvements to its water system costing more than the maximum grant amount established for the area by HUD and other Federal or State resources are committed to the completion of all proposed improvements to the water system.

Another revision indicates that assistance provided by the Farmers Home Administration and the Economic Development Administration have been cited as examples of Federal grants that may be administered by States.

Several comments recommended the addition of local government and private contributions as a part of the criterion. Since the statute clearly provides that there will be no local matching requirement, it would be inappropriate to include local government funds. Careful study has indicated a number of difficulties in assessing private contributions in a consistent manner for purposes of assigning ratings and therefore this factor will not be included.

20. A number of additional criteria for selection were proposed by commenters. After careful consideration of each proposal, HUD has determined that additional criteria for selection are not appropriate for inclusion at this time.

One suggestion was to retain the criterion relating to the consistency of activities with areawide plans which was included in the previous fiscal year. Based upon an evaluation conducted by HUD and other comments, it was determined that, as a criterion, consistency with areawide plans did not provide a meaningful differentiation among applicants and should not be retained as a selective criterion. HUD supports areawide planning and recognizes that consistency with areawide plans is most important. Therefore, the regulations governing the A–95 review and comment process with respect to discretionary grants has accordingly been expanded to solicit specific comment regarding consistency with State, areawide, and local plans. Special provisions are also provided to deal with inconsistencies.

A number of other comments requested that a criterion for selection for the impact resulting from major Federally supported construction projects should be considered. The criterion set forth in § 570.402(c) (2) (vi) regarding commitment of other Federal or States resources may provide a priority for those communities. Communities experiencing an impact resulting from major Federal construction could potentially be assisted through a priority under that criterion.

Another comment suggested a criterion recognizing redevelopment activities. Those redevelopment activities necessary for the conservation of low- or moderate-income housing stock may receive consideration under the criterion set forth in § 570.402(c) (iv).

21. As a result of a number of comments, the numerical ratings set forth in § 570.402(c) (3) have been revised as follows. The criteria set forth in § 570.402(c) (2) (i) and (ii) regarding substandard housing conditions and poverty shall be ten percent each. The criterion set forth in § 570.402(c) (2) (iii) regarding benefit to low- or moderate-income families shall be thirty-five percent. The criterion set forth in § 570.402 (c) (2) (vi) regarding conservation or expansion of low- or moderate-income housing stock shall be twenty-five percent. The criteria set forth in § 570.402 (c) (2) (v) and (vi), regarding a serious threat to public health or safety and the commitment of other Federal or State resources, shall be ten percent each.

22. Clarification was requested by several commentors regarding the process of rating a program of activities. The purpose of providing for a rating of a program of activities and making other revisions such as provision for a minimum grant amount is to have a mechanism set forth in the program regulations that encourages a more comprehensive approach by an applicant to address its community development needs. While a program of activities is not accorded a special priority vis-a-vis other activities, the multifaceted nature of a program of activities may qualify such a program for consideration under more of the criteria for selection than a single activity.

Section 570.402(c) (3) (vii) has been revised to indicate that the applicant shall specify the objective of the program of activities and how the activities are designed to meet the objective. HUD will normally accept the applicant's determination of a program unless there is clear evidence to the contrary.

Further clarification has been provided to indicate that those activities which are not a part of a program of activities shall be rated separately pursuant to the selection criteria set forth in § 570.402(c) (2) (iii)–(vi) as though each were contained in a separate request for assistance. HUD will extend invitations for submission of full applications for programs of activities or separate activities based upon total relative rating of each.

23. As a result of a number of comments regarding requests for recognition of imminent threats to public health or safety, § 570.402(c) (4) (i) (B) has been revised to require that local funds are not available and other Federal or State resources can not be made available to alleviate the imminent threat. Further, § 570.402(c) (4) (ii) has been revised specifying HUD action on such requests. Prior to the issuance of invitation to submit full applications, HUD field office directors responsible for issuing such invitations may exercise the authority of the Secretary pursuant to § 570.402(c) (4) (i) and invite full applications to alleviate imminent threats to public health and safety in an amount not to exceed ten percent of the funds, provided that such funds have been assigned. In all other instances, such requests shall be forwarded to the Assistant Secretary for Community Planning and Development by the HUD field office directors along with any recommendations. HUD may also waive the A–95 requirements pursuant to § 570.402(d) (3) and issue a letter to proceed with activities when the environmental review requirements of 24 CFR Part 58 are complied with.

A number of other comments suggested elimination of the special procedure for imminent threats. HUD has determined this procedure is appropriate to provide for a speedy response to those very limited situations when a clear emergency situation exists.

24. A number of comments requested that HUD advise all applicants whether or not they will be invited to submit a full application within sixty days. Due to the thirty day waiting period after the deadline date for submission of preapplications to provide time for receipt of A–95 comments from clearinghouses, it is doubtful that the sixty day limit proposed by commentors could be achieved in all instances. However, § 570.402(c) (5) sets forth a commitment by HUD to make prompt notification to applicants.

25. Several comments requested clarification regarding the invitation for submission of full applications. Section 570.402(d) (1) has been revised to specify that the invitation shall specify the proposed amount of assistance for which the applicant may apply and the highest ranking activities or program of activities for which funding will be made available. Applicants may also be invited to submit a full application on a contingency basis and the submission of the full application under this circumstance is solely at the discretion of the applicant. Any other conditions, such as those pertaining to the A–95 review comments, shall be clearly specified. The final date for submission of the full application will be specified and HUD may establish different dates for submission for different applicants. HUD will consider the ending date of program years of hold harmless recipients being invited to submit a full application under this Subpart in order to provide for the coordinated submission of the two applications where feasible.

26. Several comments were made regarding reduction of the invited grant amount for first time applicants attempting complex activities. Although the regulations do not mandate that HUD deal with each applicant in the same manner, HUD field offices will exercise care to make determinations of reduced grant invitations as a result of the level and complexity of activities in an equitable manner based upon the individual circumstances of each applicant.

27. Several comments suggested that the provision for substitution of activities in a full application be deleted. This provision has been retained to provide for unusual circumstances which necessitate a change. Applicants are expected to make changes only in situations resulting from actions beyond their control.

Section 570.402(d) (2) has been revised to indicate that the submission of the Grantee Performance Report set forth in § 570.400(h) is required as a part of a full application for those ap-

plicants that have received prior assistance under this Part.

28. A number of comments addressed the modified A–95 review procedure for full applications. HUD has determined that the proposed forty-five day review period will be adopted to provide adequate time for clearinghouse review of full applications, particularly the housing assistance plan.

Section 570.402(d)(3)(iii) has been modified to specify a procedure for an applicant which has received findings of inconsistency or noncompliance though the A–95 process which have not been resolved. The applicant must set forth its justification for proceeding with a proposed activity despite the A–95 finding. HUD shall review such justification and approve the activity only after careful consideration of the circumstances.

29. As a result of comments, § 570.402(d)(4) has been revised to indicate when the application requirements are waived pursuant to § 570.304, the applicant must nonetheless specify the environmental status of the activity, the source and availability of other resources if required, and whether the activity primarily benefits low- or moderate-income persons, prevents or eliminates slums or blight, or meets an urgent community development need which requires the concurrence of HUD.

30. Several comments requested clarification regarding disapproval of full applications. Section 570.402(d)(5)(iv) has been clarified to indicate that a full application may be disapproved for the reasons set forth in § 570.306(b)(2)(i)–(iii) or because the conditions established at the time of invitation of a full application have not been satisfied, the findings of inconsistency or noncompliance from the A–95 process have not been resolved, other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time, there is evidence of a lack of continuing capacity of a prior recipient to carry out the proposed activity in a timely manner, or the applicant has received alternative funding for an activity and block grant assistance is no longer required.

31. Section 570.402(d)(5)(v) has been revised to specify that applications received pursuant to a contingent invitation which HUD is unable to act upon will be returned to the applicant with an explanation of the action.

32. Section 570.402(d)(5)(vi) has been revised to indicate that although the statute does not set forth a specific time for review of discretionary applications, HUD will make every effort to complete its reviews with seventy-five days.

33. Several comments requested that all costs associated with the preparation of preapplications and applications be made eligible for assistance. HUD has determined that the procedure set forth in § 570.402(e) regarding the issuance of a letter to proceed is adequate to address hardship cases and that the eligibility of all costs would place an unnecessary burden upon the assistance available under this section that is otherwise available for specific activities. With respect to the letter to proceed, only those costs of the actual preparation of the application may be assisted. In no instance may a planning or preparation fee be reimbursed that is based upon a percentage of the grant assistance obtained under this subpart.

34. As a result of a number of comments, § 570.402(f) has been revised to clarify those program amendments requiring prior HUD approval. Any program amendment which adds to or significantly alters the scope, location, or scale of an approved activity or those it benefits or the cumulative effect of a number of smaller changes adding up to more than ten percent of the budget require prior HUD approval and the A–95 clearinghouses shall be provided thirty days for review prior to submission to HUD.

HUD may approve the substitution of a new activity when that activity has a rating equal to or greater than the lowest rated activity approved for funding in the most recent preapplication rating cycle. Applicants are advised that the substitution of new activities will generally be favorably considered only in instances where they can be completed in a short period of time. The recipient may make other minor program amendments without receiving prior HUD approval.

35. Section 570.402(g) has been revised to indicate that preapplications from a previous year must again comply with the citizen participation requirements and all other program requirements of this Subpart as though the preapplication were being submitted for the first time.

36. Several comments were raised regarding citizen participation on housing needs and objectives. Section 570.303(e)(4)(ii) specifies that hearings shall be conducted on both community development and housing concerns. Applicants must conduct at least two public hearings prior to submission of the preapplications. If these hearings covered community development issues only, an applicant may conduct an additional public hearing after receipt of an invitation to submit a full application to HUD for the express purpose of eliciting input from citizens regarding the development of a housing assistance plan pursuant to § 570.303(c) which is submitted as a part of the full application. Section 570.402(g) has been revised accordingly.

37. A number of comments were received regarding State applications set forth in § 570.402(h).

One comment suggested that a special priority and set of criteria for selection for State applications be established. The statute provides that States may apply for general purpose discretionary funds just as units of general local government may and HUD sees no reason for establishing a special priority or criteria for State applications.

Another comment suggested that when an application is submitted by a State in behalf of a locality, the agreement between the parties recognizes the special relationship between States and local governments. However, the provision for a State application in behalf of a local government is included so that the State may provide expertise lacking at the local level, act due to some legal incapacity on the part of the unit of local government, or meet some other similar circumstance. Such applications should be tendered only upon agreement of both parties. Accordingly, the regulations do not reflect any condition other than a willing agreement between the two parties.

Another comment questioned the prohibition of State activities within metropolitan cities and urban counties with discretionary funds contained in § 570.402(h)(4). This use of general purpose discretionary funds is intended by the authorizing legislation to benefit areas which do not receive a direct entitlement grant. The direct conduct of activities within a metropolitan city or urban county would contravene this purpose. However, such areas could indirectly benefit from discretionary grant activities designed to serve a entire metropolitan area or region of a state.

Section 570.402(h) has been revised to specify the manner in which the requirements of § 570.402, including the demographic data pursuant to § 570.402(c)(2)(i) and (ii), apply to State applications. For a State application in behalf of a unit of local government, the requirements shall only apply to the included units of local government. For a State application for direct assistance, the requirements shall be applied to the appropriate portion or portions of a State directly served by an activity.

Section 570.402(h)(3)(iii) regarding the use of a HUD approved State 701 housing element as a housing assistance plan was determined by HUD not to be included.

38. Section 570.402(h) has been further revised to clarify the procedures for accommodating applications submitted by counties, other than urban counties.

A county may submit an application in behalf of a unit of general local government. In this case, all the requirements of this subpart, including the demographic data relating to the criteria for selection for substandard housing conditions, would apply to the unit of general local government. A county may also submit an application for assistance which is not in behalf of units of local government. In this instance, the requirements of § 570.402 would be applied on a countywide basis, excluding only metropolitan cities. In both instances, however, the county housing assistance plan shall cover the entire county excluding metropolitan cities, and shall not be inconsistent with the HUD approved housing assistance plan of any unit of general local government contained within the county.

A number of comments questioned a perceived limitation of the broad range of community development activities that will be assisted. Due to the large demand for assistance, the Department has focused upon certain priority areas

recognizing that there are other areas that could potentially be assisted. As this is a discretionary grant program, HUD is exercising certain discretion in establishing priority areas within the several purposes of the statute. It should be noted, however, the provisions set forth in § 570.402(c)(3)(vii), which provides for a single rating of a program of activities, are designed to provide applicants flexibility in the manner in which they address their community development needs.

Several comments were made regarding joint submission of applications by more than one unit of local government. Such joint submission may be addressed either through an application submitted by a county or a State in behalf of the units of local government pursuant to § 570.402(h)(1), or by one unit of general local government in behalf of itself and other units of local government.

Several comments proposed the inclusion of a formal appeals procedure for the ratings of preapplications assigned by HUD. The Department has decided that such a procedure will not be included in the regulations. Section 570.402(c)(5) states that HUD will promptly notify the applicant whether or not it will be invited to submit a full application and the numerical ratings assigned to its preapplication. HUD field offices are expected to be able to explain the rationale for any rating assigned within the criteria for selection upon request of the applicant. When a legitimate error has been made, the field office will refer the matter to the appropriate HUD Regional Office.

Thus, rather than adopting a formal procedures for appeals, the Department has elected to provide clarifications of the regulations to ensure objectivity and consistency in the review of preapplications by HUD. It is, however, incumbent upon applicants to address each criterion for selection in an accurate and concise manner in their program narrative statements so that HUD may apply the rating system to their proposals appropriately.

In connection with the environmental review of these amendments to the regulations a Finding of Inapplicability has been made under HUD Handbook 1390.1, (38 FR 19182). A copy of the Finding is available for inspection in the Office of the Rules Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C.

It is hereby certified that the economic and inflationary impacts of these amendments have been carefully evaluated in accordance with OMB Circular A-107.

(Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); and Sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Accordingly, 24 CFR Part 570 is amended as follows:

§ 570.201 [Amended]

1. In § 570.201, paragraph (h), insert the reference "§ 570.402(e)" in lieu of the reference "§ 570.400(e)".

2. Section 570.400 is amended by revising paragraph (b); by amending paragraphs (d)(1), (f), (f)(1)(i), and (g); and by deleting paragraphs (c)(2)(i), (d)(2), and (e) as follows:

§ 570.400 General.

* * * * *

(b) *Data.* (1) With the exception of § 570.400(b)(2), wherever data are used in this subpart for selecting applicants for assistance, the source of such data shall be the materials that HUD acquires from the United States Bureau of the Census for use in allocating funds pursuant to Subpart B of this part for the same fiscal year appropriation.

(2) With respect to the data used for the criteria for selection set forth in §§ 570.402(c)(2)(i) and (ii), a HUD Regional Office will authorize the use of updated data developed by a State agency for the nonmetropolitan areas of a State or updated data developed by a State or areawide planning organization for a metropolitan area in lieu of Federal census data if the following criteria are met: (i) The data have been updated in such a manner that they can be applied to all potential applicants in the nonmetropolitan areas of a State or in a metropolitan area; (ii) the data can be verified by HUD; and (iii) the data, for Fiscal Year 1977, can be submitted in a usable form no later than November 1, 1976.

(c) * * *

(2) * * *

(i) [Reserved]

* * * * *

(d) *Meeting the requirements of OMB Circular A-95*—(1) *General.* All applicants under this subpart must comply with the requirements set forth in OMB Circular A-95 or as modified by this Subpart. Federally recognized Indian tribes are not subject to the A-95 review requirements set forth in this Subpart; however, they are encouraged to participate voluntarily in the A-95 Project Notification and Review System. HUD will notify the appropriate State and areawide clearinghouses of any applications from federally recognized Indian tribes upon their receipt.

(2) [Reserved]

(e) [Reserved]

(f) *Review of applications for discretionary grants.* Applications for assistance pursuant to this subpart shall be reviewed by HUD pursuant to the following:

(1) * * *

(i) The application is postmarked or received on or before the final date established by HUD for submission of applications for each fiscal year or as set forth in the invitation to submit a full application pursuant to § 570.402(d)(1).

* * * * *

(g) *Program amendments.* (1) Recipients, with the exception of those recipients receiving assistance pursuant to § 570.402, shall request prior HUD approval for program amendments whenever the amendment results from changes in the scope or the objective of the approved program.

(2) Recipients of assistance pursuant to § 570.402, shall comply with the requirements for program amendments as set forth in § 570.402(f).

* * * * *

3. Section 570.402 is amended to read as follows:

§ 570.402 General purpose funds for metropolitan and nonmetropolitan areas.

(a) *Eligible applicants.* Eligible applicants are States, and units of general local government as defined in § 570.3(v), excluding metropolitan cities, urban counties and units of general local government which are included in urban counties as described in § 570.105(b)(3)(ii) and (iii). For the purpose of this section, the second sentence in § 570.3(v) includes those entities described in § 570.403(b)(1), (2) and (3).

(b) *Preapplications.* Preapplications are required for grants from general purpose funds for metropolitan and nonmetropolitan areas. The purpose of the preapplication is for HUD to determine which applicants shall be invited to submit a full application pursuant to § 570.402(d)(1) by comparing the conditions of substandard housing and poverty within an applicant's jurisdiction and the activities or programs proposed by the applicant in accordance with the criteria for selection, with similar conditions and activities from other jurisdictions.

(1) *Scope of preapplication.* A preapplication may include any number of eligible activities totalling up to the maximum dollar amount established by the Secretary pursuant to § 570.402(b)(5). A preapplication may propose activities to be undertaken during a reasonable period of time necessary to complete them which generally is expected not to exceed two years. The applicant shall apply for discretionary funds in an amount, which together with other resources that may be available, will be adequate to complete the proposed activities without additional block grant funds. While a recipient remains eligible for discretionary grant funding in subsequent years, an applicant shall not assume that additional funding will be available in subsequent years to continue or expand activities. A preapplication may not, however, be only for planning purposes, as defined in § 570.200(a)(12).

(2) *Submission requirements.* Preapplications shall be submitted on HUD forms to the appropriate HUD Area Office and shall consist of the following:

(i) Standard Form 424, as prescribed by Federal Management Circular 74-7.

(ii) A program narrative statement which consists of the following: (A) A

brief description of the applicant's community development needs and objectives to be served by the proposed activities; (B) A description of the activities to be carried out with assistance under this subpart and an estimate of the cost of the proposed activities; and (C) Appropriate information pursuant to the criteria for selection set forth in § 570.402 (c) (2).

(iii) The following other items: (A) The certification required for preapplications regarding citizen participation pursuant to §§ 570.303(e) (4) and 570.-402(g); (B) A map of the applicant's jurisdiction which clearly identifies (1) census tracts and/or enumeration districts, (2) location of the proposed activities, (3) concentrations of minority groups, and (4) concentrations of lower-income persons; (C) If the applicant has received prior assistance under this Part, a status report regarding performance of prior grants pursuant to § 570.402 (c) (1) (i), or the Grantee Performance Report in lieu of the status report (applicants which have not received prior assistance under this part are not required to submit the status report and are not subject to the threshold requirement set forth in § 570.402(c) (1) (i)); and (D) If the applicant has had a HUD approved housing assistance plan applicable to its jurisdiction, a statement regarding the applicant's actions pursuant to § 570.042(c) (1) (ii) (applicants which have not had a HUD approved housing assistance plan applicable to their jurisdictions are not required to submit the statement and are not subject to the threshold requirement set forth in § 570.-402(c) (1) (ii)).

(3) *Preapplication submission date.* The Secretary will announce the earliest and latest dates for submission of preapplications for each fiscal year by publication of a notice in the FEDERAL REGISTER.

(4) *Modified OMB Circular A-95 procedures for preapplications.* (i) *The* following special procedure applies to the general purpose funds for metropolitan and nonmetropolitan areas for which a preapplication shall be submitted to the appropriate A-95 State and areawide clearinghouses prior to or concurrent with the submission of the preapplication to HUD to serve as the notification of intent to apply for a Federal grant. All applicants are urged to contact their clearinghouses for forms and instructions developed by the clearinghouses to facilitate their reviews. The clearinghouses will have thirty days for review of the preapplication and to provide a response to the applicant with a copy to HUD which clearly identifies the applicant and the activity to which the clearinghouse comments are addressed. HUD shall not make a final rating on a preapplication until the clearinghouse comments are considered or in the case no comments are received by HUD, 30 days after the deadline date for submission of preapplications.

(ii) Clearinghouses will be of assistance to the applicant and to HUD if their reviews address the threshold factors and criteria for selection pursuant to §§ 570.402 (c) (1) and (c) (2), respectively, as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A-95, item 5 with emphasis on consistency among State, areawide, and local plans and compliance with environmental and civil rights laws.

(5) *Maximum and minimum grants.* The Secretary may establish a single maximum grant amount and a minimum grant amount for all discretionary applicants from the nonmetropolitan areas in a State, and single maximum grant amounts and minimum grant amounts for all applicants in each metropolitan area, provided these amounts are made known to applicants no later than the earliest date for submission of preapplications established pursuant to § 570.402(b) (3). In cases of special need, the Secretary may waive the maximum or minimum amounts.

(6) *Acceptance of preapplication.* Upon receipt of the preapplication, the HUD field office will accept it for review, provided, (i) That it is postmarked or received on or before the established deadline date; and (ii) that the preapplication requirements specified in § 570.402(b) (2) are complete.

(c) *HUD review procedures.* Each HUD Regional Office shall establish a review and rating system to evaluate preapplications within its jurisdiction. Copies of HUD review and rating systems may be obtained from the appropriate HUD field office prior to submission of a preapplication.

(1) *Threshold factors.* The review and rating system will provide that affirmative determinations shall be made on each of the following threshold factors in order for a preapplication to be considered for rating.

(i) With respect to all previously approved assistance under this part, the applicant has made reasonable progress with the type of activities it has undertaken to permit a determination of a continuing capacity on the part of the applicant to carry out the proposed activity or program of activities in a timely manner. This determination will take into account the nature of the activities undertaken, the length of the time since approval of any prior assistance and progress toward completion of approved activities. In considering progress toward completion of approved activities, HUD may take into account such factors as expenditure of funds; obligation of funds; award of third party contracts; provision of committed funds from other Federal, State, or local sources; and compliance with applicable program requirements, but shall not make a determination based solely upon some minimum percentage of achievement for any factor by the applicant. Rather, the progress of the applicant shall be compared with the progress of other applicants of comparable size and experience which are conducting similar activities.

(ii) The applicant has taken appropriate local actions within its control to provide assisted housing in accordance with any HUD-approved housing assistance plan applicable to the applicant's jurisdiction. Where housing has not actually been provided, such local actions may include the removal of impediments in local ordinances and land use requirements to the development of assisted housing, the formation of a local housing authority when necessary to carry out the housing assistance plan, the provision of sites for assisted housing when resources are available, and other actions appropriate for implemention of the housing assistance plan. The actions of an applicant, which previously participated as a part of an urban county and has subsequently withdrawn, shall be considered with regard to the provision of assisted housing in accordance with the HUD approved housing assistance plan for the urban county applicable to the applicant's jurisdiction.

(2) *Criteria for selection.* Preapplications which meet the threshold requirements pursuant to § 570.402(c) (1) shall be rated competitively in accordance with the following selection criteria:

(i) The extent of substandard housing conditions as represented by the sum of the number of overcrowded housing units as defined in § 570.3(i) and the number of housing units lacking plumbing, expressed both as an absolute amount and as a percentage of the total housing units within the jurisdiction of the unit of general local government.

(ii) The extent of poverty as defined in § 570.3(j) and expressed both as an absolute amount and as a percentage of the total population within the jurisdiction of the unit of general local government.

(iii) The extent to which the proposed activity or program of activities is designed either exclusively, principally, or incidentally to benefit low- or moderate-income families. For example, a water distribution activity which is provided solely for low-income families only would be an exclusive benefit. A water distribution activity of which more than 51 percent of those served are low- or moderate-income families is of principal benefit. A citywide water distribution activity of which less than 51 percent of those served are low- or moderate-income families is of incidental benefit.

(iv) The extent to which the proposed activity or program of activities is necessary to support the expansion or conservation of the applicant's low- or moderate-income housing stock. For example, the provision of water and sewer facilities is necessary to support the provision of a site for new construction of assisted housing; the provision of rehabilitation financing is necessary to support the conservation of an area of predominately low- or moderate-income homeowners; and code enforcement activities are necessary to support the conservation of an area of predominately low- or moderate-income renters. A lesser degree of consideration may be assigned to an activity or program of activities that is beneficial to the expansion or

conservation of low- or moderate-income housing. For example, the provision of open space in an area of low- and moderate-income housing conservation is beneficial.

(v) The extent to which the activity or program of activities is necessary to alleviate a serious threat to health or safety. For the purpose of this paragraph the term "serious threat" shall mean a condition that imperils public health or safety and requires prompt resolution. For example, a drinking water supply contaminated to a degree that it is highly probable that cases of disease resulting from the contamination will occur within one year would qualify as a serious threat. The threat shall be verified by an authority other than the applicant.

(vi) The applicant can demonstrate (A) That the funding of the activity or program of activities will involve a firm commitment of other Federal or State resources in combination with the proposed assistance under this Subpart, and (B) That the provision of each proposed form of assistance is required for the timely completion of the proposed activity or program of activities. Other resources may be provided by matching other Federal or State grants or by involving identifiable commitments of other Federal or State resources, including Federal grants, such as those from the Farmers Home and Economic Development Administrations, which may be administered by States.

(3) *Numerical ratings.* Rating systems developed pursuant to § 570.402(c) shall assign numerical ratings for each criterion set forth in § 570.402(c)(2). The percentage of all points possible to be assigned under the rating system shall be distributed among the criteria as follows:

(i) Ten percent for the substandard housing described in the criterion in § 570.402(c)(2)(i), of which five percent is for absolute amount and five percent is for proportion;

(ii) Ten percent for poverty described in the criterion in § 570.402(c)(2)(ii), of which five percent is for absolute amount and five percent is for proportion;

(iii) Thirty-five percent for benefit to families of low- or moderate-income in the criterion in § 570.402(c)(2)(iii);

(iv) Twenty-five percent for housing efforts in the criterion in § 570.402(c)(2)(iv);

(v) Ten percent for health or safety pursuant to the criterion as described in § 570.402(c)(2)(v);

(vi) Ten percent for involvement of other resources described in the criterion in § 570.402(c)(2)(vi);

(vii) Groups of activities which are designed as a coordinated effort concentrated within a designated area to meet a specific objective shall receive one single rating jointly as a program of activities and not as individual activities. The applicant shall specify the objective to be obtained and how the activities are designed to meet this objective. HUD will normally accept the applicant's designation of a program unless there is clear evidence to the contrary. Two or more unrelated activities in a preapplication shall receive separate numerical ratings in accordance with § 570.402(c)(3)(iii)–(vi) as though the activities were part of separate preapplications.

(4) *Imminent threat to public health or safety*—(i) *Criteria.* The following criteria for an imminent threat to public health or safety shall apply:

(A) Notwithstanding the provisions of § 570.402(b), the Secretary may, at any time, invite a full application for funds available under this Subpart in response to a request for assistance to alleviate an imminent threat to public health or safety that requires immediate resolution by waiving the requirements of § 570.402(b). The urgency and the immediacy of the threat shall be verified by HUD with an appropriate authority other than the applicant prior to approval of the full application. For example an applicant with documented cases of disease resulting from a contaminated drinking water supply would have an immediate threat to public health, while an applicant ordered to improve the quality of its drinking water supply over the next two years would not have an imminent threat within the definition of this paragraph.

(B) The applicant does not have sufficient local resources and other Federal or State resources can not be made available to alleviate the imminent threat.

(ii) *HUD action.* (A) Prior to the final selection of applicants to be invited to submit full applications pursuant to § 570.402(d)(1), HUD may invite full applications to alleviate imminent threats to public health or safety in an amount not to exceed ten percent of the funds allocated pursuant to Subpart B and assigned to HUD field offices for general purpose discretionary grants pursuant to this section in metropolitan and nonmetropolitan areas, provided that the funds have been assigned to the field office. (B) The requirements for A-95 review and comment pursuant to §570.402(d)(3) may be waived in the case of an imminent threat. HUD shall notify the appropriate State and areawide A-95 clearinghouses that it is inviting a full application for an imminent threat from an applicant. (C) The Secretary may issue the applicant a letter to proceed to incur costs to alleviate the imminent threat provided all environmental reviews are completed pursuant to 24 CFR Part 58.

(5) *Notification to applicants.* HUD will promptly notify applicants whether or not they will be invited to submit a full application. The notification shall include the numerical ratings applicable to the applicant's preapplication.

(d) *Applications.* HUD shall invite full applications based upon the numerical ratings of preapplications or based upon an imminent threat to public health or safety pursuant to § 570.402(c)(4).

(1) *Invitation to submit a full application*—(i) The invitation to submit a full application shall specify a proposed amount of assistance for which the applicant may apply and may designate those highest ranking activities or programs proposed by the applicant which received a sufficient numerical rating pursuant to § 570.402(c)(3) for assistance. If a circumstance arises regarding a choice among activities rating highly enough for funding, the priority will be established by the applicant.

(ii) An applicant may be invited to submit a full application on a contingent basis based upon its numercial ratings. Such an invitation shall clearly specify the nature of the contingency and the circumstances under which funds may be available. Further, the applicant shall be informed that HUD is under no obligation to act upon a contingent application.

(iii) The invitation shall clearly specify any conditions upon the acceptance of a full application.

(iv) The invitation shall clearly specify the final date for submission of the full application. HUD may establish different dates for applicants based upon such factors as processing workload and availability of funds.

(v) The Secretary may request that an applicant submit a full application for assistance under this subpart for an amount less than requested by the applicant in its preapplication. In determining the amount of the grant for which an applicant is invited to submit a full application, the Secretary may take into account the level and complexity of the proposed activities and the capacity of the applicant to complete such activities within a reasonable period of time and within estimated costs.

(2) *Application requirements.* Full applications will be accepted only upon invitation from HUD. Addition of new activities from those proposed in the preapplication will not be approved if such addition or substitution will lower HUD's rating of the preapplication and are necessitated by actions beyond the control of the applicant. Full applications shall meet the application requirements of §§ 570.303 and 570.400(h) and shall also include schedules showing target dates for start up and completion of all proposed activities.

(3) *Modified OMB Circular A-95 procedure for full applications.*

(i) At least forty-five days prior to the submission of a full application to HUD, the applicant shall transmit the full application to the appropriate State and areawide clearinghouses for review and comment unless the clearinghouses relinquish this requirement prior to the final date for submission of the application to HUD. The clearinghouses shall be provided forty-five days for their review and comment.

(ii) The applicant shall transmit all comments with the full application to HUD. In instances where comments are not received by the applicant within the forty-five day period, the applicant shall include a statement indicating that the State and areawide clearinghouses were notified and no comments were received.

(iii) If the A-95 review comments contain any findings of inconsistency with State, areawide, or local plans, or

noncompliance with environmental or civil rights laws, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the activity despite the finding developed through the A-95 review process.

(4) *Waiver of application requirements.* The provisions of § 570.304 shall also apply to applications under this section, with the exception that the applicant shall specify the environmental status of the activity, the source and availability of other resources if required, and whether the activity is to benefit primarily low- or moderate-income persons, for the prevention or elimination of slums and blight, or to meet a community development need of a particular urgency which requires the concurrence of the Secretary.

(5) *HUD review and approval of full application*—(i) *Acceptance of application.* Upon receipt of the full application, the HUD field office will accept it for review, provided that it has been received before the deadline established pursuant to § 570.402(d) (1) (iv); the application requirements specified in § 570.402 (d) (2) are complete, except with regard to those applications for which certain submission requirements are waived pursuant to § 570.402(d) (4); the funds requested do not exceed the amount of the invitation by HUD, unless a revised amount is acceptable to HUD; and any comments and recommendations received from clearinghouses are attached to the application or a statement that no comments were received pursuant to § 570.402(d) (3) (ii).

(ii) *HUD action on full applications.* Full applications will be reviewed to ensure that any other necessary resources that may be required to complete the proposed activities are in fact available; that any conditions that may have been established at the time of invitation to submit a full application have been satisfied; that there is evidence of a continuing capacity of prior recipients to perform; and that any findings on inconsistency or noncompliance developed through the A-95 review process have been resolved. The Secretary will promptly notify the applicant in writing that the full application has been approved, partially approved, disapproved, or otherwise not acted on for any reason.

(iii) *Conditional approval.* The Secretary may make a conditional approval, in which case the grant will be approved, but the utilization of funds for affected activities will be restricted. Conditional approvals will be made only pursuant to § 570.306 (e) (1) through (e) (4) or to ensure the actual provision of other firmly committed resources required to complete activities within a reasonable period of time and within estimated costs.

(iv) *Disapproval of a full application.* The Secretary may disapprove a full application for the reasons set forth in § 570.306(b) (2) (i)–(iii). Further, full applications otherwise eligible for assistance under this subpart may be disapproved for the following reasons: (A) the conditions established at the time of the invitation to submit a full application have not been complied with; (B) the findings of inconsistency or noncompliance developed through the A-95 review process have not been resolved; (C) other resources necessary for the completion of the proposed activity are no longer available or will not be available within a reasonable period of time; (D) the activities cannot be completed within the estimated costs or resources available to the applicant; (E) there is evidence of a lack of continuing capacity of a prior recipient to carry out the proposed activities in a timely manner; or (F) the applicant has received alternative funding for the activities and assistance under this Subpart is no longer required.

(v) *Applications not acted upon.* Applications received by HUD on a contingent basis pursuant to § 570.402(d)-(1) (ii) which HUD is unable to act upon shall be returned to the applicant with an explanation of the reason for this action.

(vi) *Timing of review.* While the Secretary is not required by the Act to review and approve discretionary grant applications within a specific time period, the Secretary will make every effort to complete the review within 75 days.

(e) *Letter to proceed.* In response to a request by a unit of general local government, the Secretary may, in cases of demonstrated need, issue a letter authorizing an applicant to incur costs for the planning and preparation of an application for funds available under this section. Reimbursement for such costs will be dependent upon HUD approval of such application. Only those costs associated with the actual cost of preparation of the application may be assisted. In no instance may a planning or preparation fee be reimbursed that is based upon a percentage of the assistance received under this section. Costs incurred by an applicant prior to notification of a funding approval or issuance of a letter to proceed by HUD are not eligible for assistance under this part.

(f) *Program amendments.*—(1) *Prior HUD approval.* Recipients shall request prior HUD approval for all program amendments involving new activities; significant alteration of existing activities that will change the scope, location, or scale of the approved activities or beneficiaries; or whenever a revision involving the cumulative effect of a number of smaller changes add up to an amount that exceeds ten percent of the budget. HUD approval of program amendments may be granted to those requests which meet the following criteria:

(i) The program amendment is necessitated by actions beyond the control of the applicant, or funds remain after completion of all approved activities.

(ii) In cases where activities are added or are significantly altered, the new activities shall be rated in accordance with the criteria for selection applicable at the time of receipt of the program amendment. The rating of a new activity proposed by a program amendment shall be equal to or greater than the rating of the lowest rated activity that was approved during the most recent cycle of preapplication ratings.

(iii) The requirements of this Subpart for A-95 review of program amendments and citizen participation are complied with.

(iv) Consideration shall be given whether the addition of any new activity can be completed promptly.

(2) *A-95 review.* The recipient shall provide the State and areawide clearinghouses with thirty days for review and comment prior to submission of a program amendment requiring prior HUD approval pursuant to §570.402(f) (1).

(3) *Other program amendments.* The recipient may make program amendments other than those requiring prior HUD approval pursuant to § 570.402(f) (1) without HUD approval.

(g) *Citizen participation.* The citizen participation requirements of this part shall be met by the applicant prior to the submission of the preapplication, with the exception that if the hearings conducted prior to the submission of the preapplication covered only community development matters, then an additional public hearing shall be conducted prior to the submission of the full application for the purpose of obtaining citizen input regarding the development of the housing assistance plan pursuant to § 570.303(c). Preapplications from a previous year being resubmitted are again required to meet all the citizen participation requirements for the current year. As a part of the information to be provided pursuant to § 570.303 (e) (4) (i), the applicant shall inform citizens of the maximum discretionary grant for which the applicant may apply, the criteria for selection of preapplications, and that the number of preapplications submitted may substantially exceed the number of applications that may ultimately be approved from the available funds. All the requirements of § 570.303(e) (4) (i) shall be met prior to the submission of the preapplication, with the exception of detailed input regarding the development of the housing assistance plan.

(h) *Applications submitted by states and counties.* States may apply for general purpose funds for metropolitan and nonmetropolitan areas to carry out eligible activities in metropolitan and nonmetropolitan areas ,respectively. Separate applications are required for metropolitan and nonmetropolitan areas. A State may, at its option, submit separate applications for each metropolitan area for which it seeks funds or submit a single application for more than one metropolitan area, provided that such application clearly identifies the proposed cost attributable to each metropolitan area. Counties may also apply for assistance under this section. For the purpose of this paragraph, the term "county" does not include an urban county pursuant to § 570.3(w).

(i) *Applications in behalf of units of general local government.* A State or county may submit an application for

assistance under this subpart in behalf of a unit or units of general local government. The provisions of § 570.402 shall, except as otherwise noted, apply only to those units of general local government covered by the State or county application. The application of a State or county in behalf of a unit of general local government shall be pursuant to a written agreement between the State or county and the participating unit of general local government.

(2) *Application for direct assistance.* A State or county may submit an application for direct assistance for itself and not in behalf of specific units of general local government.

(i) For a county application, the provisions of § 570.402 shall be applied on a countywide basis, exclusive of metropolitan cities.

(ii) In the case of a State application, the provisions of § 570.402 shall apply to the geographic area of the State in which the proposed activity or program of activities is to be located or carried out.

(3) *State application housing assistance plans.* (i) In those instances where there is a HUD approved housing assistance plan meeting the requirements of § 570.303(c) for units of general local government in which the activities are to be carried out by the State, the State need only indicate in the application that it subscribes to and adopts the housing assistance plan of the unit of general local government.

(ii) In those instances where there is no HUD approved housing assistance plan for a covered unit of general local government, the State shall submit as a part of its application a housing assistance plan for the unit of general local government adopted by that unit of general local government.

(4) *County application housing assistance plans.* When an application for assistance is submitted by a county pursuant to §§ 570.402(h) (1) and (2), regardless of the location of the proposed activities within a county, the county housing assistance plan shall cover the entire county, excluding only metropolitan cities. The county housing assistance plan shall not be inconsistent with the HUD approved housing assistance plan of any unit of general local government within the county.

(5) *Activities in urban counties and metropolitan cities.* A State or county may not apply for activities to be located in or carried out in metropolitan cities, urban counties, or units of general local government which are included in urban counties, unless such funds have been reallocated in accordance with § 570.107.

Effective date. This amendment shall become effective October 18, 1976.

WARREN H. BUTLER,
Acting Assistant Secretary for Community Planning and Development.

[FR Doc.76-30422 Filed 10-15-76;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assitant Secretary for Community Planning and Development

[Docket No. N-76-636]

GENERAL PURPOSE DISCRETIONARY GRANTS FOR METROPOLITAN AND NONMETROPOLITAN AREAS UNDER THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Dates for Submission of Preapplication

Notice is hereby given that, in accordance with 24 CFR 570.402(b) (3), the Department of Housing and Urban Development (HUD) has established dates for submission of preapplications for general purpose discretionary grants to be accepted by HUD for Fiscal Year 1977.

For nonmetropolitan areas, the earliest date for submission will be November 15, 1976, and the latest will be January 7, 1977.

For metropolitan areas, the earliest date for submission will be January 17, 1977, and the latest date will be February 18, 1977.

Units of general local government are hereby advised to submit three copies of the preapplication pursuant to 24 CFR 570.402(b) (2), to the appropriate HUD field office serving the applicant's jurisdiction.

Issued at Washington, D.C., October 12, 1976.

WARREN H. BUTLER,
Acting Assistant Secretary for Community Planning and Development.

[FR Doc.76-30423 Filed 10-15-76;8:45 am]

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